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O.A. No. 398 of 2008

Order dated: 27.11.2008

CORAM:

Hon'ble Mr. A. K. Gaur, Member(J)

Hon'ble Mr. C.R.Mohapatra, Member (A)

We have heard Mr. K.Pattnaik, Ld. Counsel for the applicant and Mr. S.K.Ojha, Ld. Standing Counsel for the Respondents and have carefully perused the Appellate order dated 29.09.2008 (Annexure-A/10) at page 41 to the O.A.

2. We are satisfied that the appellate authority has not passed reasoned and speaking order in accordance with the provisions of rule and in accordance with the direction of Supreme Court rendered in AIR 1986 SC 1173 in the matter of Ram Chander vs Union of India.

3. We have also considered the argument of Shri Pattnaik, Ld. Counsel for the applicant that appellate authority has not considered the case on merit but limited itself to the question of limitation.

4. The competent authority while deciding the appeal, may also look into the question of limitation but in the present case he is required to pass reasoned and speaking order on merit irrespective of limitation.

5. We accordingly quash and set aside the order dated 29.09.2008 and direct the appellate authority to reconsider the matter without taking into account the limitation and pass appropriate, reasoned and speaking order

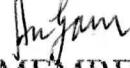
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on the merits of the case within three months from the date of receipt of a copy of this order.

6. At the request of Ld. Counsel for the applicant, we direct the applicant to file a fresh appeal within two weeks from the date of receipt of a copy of this order. If such an appeal is preferred by the applicant, the same shall be considered and disposed of in accordance with law within a period of three months by the appellate authority on merits. By deciding the statutory appeal of the applicant, Respondents shall not take into account the period of limitation prescribed in the law/^vrule.

7. With the aforesaid observation, the O.A. is disposed of.


MEMBER (A)


MEMBER (J)