

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

MA No.191 of 97  
(O.A. No.148 of 96)

Present : Hon'ble Dr. B.C. Sarma, Administrative Member.  
Hon'ble Mr. D. Purkayastha, Judicial Member.

F.X. Wood, son of late S.C. Wood, Ex-fireman  
Gr.C i.e. II, under Locoforeman, Asansol,  
now residing at Rly. Qrs. No. 1124/A  
Chandmari Colony, C/O J. Roy, Asansol,  
Pin. 713302, Distt. Burdwan.

...Applicant.

- V e r s u s -

1. Union of India, through the General Manager  
E.Rly. 17, N.S. Road, Calcutta-700001.
2. The Divisional Rly. Manager, E. Rly. Asansol

...Respondents.

For the applicants : Mr. B. Chatterjee, Counsel.  
Ms. B. Mondal, counsel.

For the respondents : Mr. P.K. Arora, counsel.

Heard on 23.6.97

24/6/97  
Order on 23.8.97

O R D E R

D. Purkayastha, JM

The applicant Shri F.X. Wood filed this application for recalling modifying and/of amending the order dated 30.4.97 passed by the Division Bench of this Tribunal in O.A. No. 148/96 on the ground that the case has been dismissed unjustly and not by appropriate application of mind and there has been material injustice in the instant case. According to applicant, the question of limitation will not apply in the case as opined in the judgment under review. We have gone through the review application and we find that the review application was dismissed on the ground of limitation stating inter-alia that no petition praying for condonation of delay has also been filed by the applicant and there is no doubt that case is hopelessly barred by limitation in view of the Ratan Saranta s case where it has been held that the delay will itself deprive a person of his own right.

On going through the application, the main grievance of the applicant, is that the said finding of this tribunal is wrong and unjustified thereby, miscarriage of justice has been done to the applicant. Hence the application has been filed under Rule 24 of Central Administrative (Procedure) Rules, 1987 which stipulates as follows:

" The tribunal may make such orders or give such directions as may be necessary or extend give effect to its order and to prevent and to prevent abuse of its process and to secure the ends of justice."

On <sup>a</sup>perusal of the application it is found that the application does not come under the purview of Rule 24 of the CAT (Procedure) Rules 1987 and even if we treat this application as review petition, ~~but~~ we find // difficulty to entertain the application for review. The question of limitation as stated by the Id. advocate is a question of law and fact. Moreover, section 21 of the CAT deals with the limitation for filing application before the Tribunal and it is a special Act thereby, question of limitation would not <sup>be</sup> by guided by the general limitation act which applies to a suit. So the applicant is to satisfy the requirements with sufficient cause for condoning the delay of limitation independently in view of the provisions of section 21 of the CAT Act 1985 which deals with the limitation. The power of judicial review is rather circumscribed.

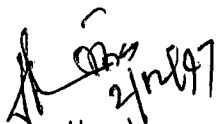
✓ It is now fairly settled by the catena of decisions of the Hon'ble Apex Court <sup>That</sup> unless grave error is apparent on the face of the record, the court or Tribunal should exercise the power of review but the court cannot create the same in exercising the power of review. Moreover, we find that the order passed by this tribunal under challenge is appealable one. On perusal of the judgment, we are satisfied that there is no apparent on the face of the record thereby, question of recalling the order or modifying the order as prayed for by the applicant is unwarranted. So, the application is devoid of merit and accordingly it is dismissed.

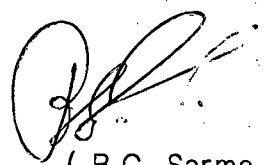
3. Before parting with the record we are to observe that the language/words used in the memo of application under Rule 24 of the CAT (Procedure) Rules 1987 warrant some comments from us. The application is not happily drafted according to the judicial ethics and

norms. When the application is filed through advocate after proper attestation by the advocate, responsibility of Advocate concerned for filing of the application cannot be escaped. So, we think that advocate should be warned to be cautious in respect of filing the application ~~in~~ ~~before~~ before the court of law or tribunal in order to maintain judicial propriety, dignity and status of the court. In Ajay Kumar Pandey's case reported in (1996) 6 Supreme Court Cases 510 para 32, Hon'ble Apex Court held:

" An Advocate as a citizen of this country has the fundamental right of freedom of expression and speech under Article 19 of the Constitution. This right is also guaranteed to him under the Advocates Act. Apart from that, the legal profession has the inherent right to express itself in the best manner possible in uninhibited language. But the right to express also carries with it the duty to be dignified in the use of expression and to maintain decorum and peace in the court proceedings.

Accordingly the advocate may be communicated the view of this tribunal in respect of filing this application which is not happily worded with appropriate language as we noticed. Accordingly application is dismissed awarding no costs.

  
( D. Purkayastha )  
M e m b e r (J)

  
( B.C. Sarma )  
M e m b e r (A)

2/12/97