

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. M.A. 278/2002
M.A. 81/2002
M.A. 82/2002
M.A. 406/2002
(O.A. 605 of 1997)

Date of order : 27.9.2002

Present : Hon'ble Mr. B.P. Singh, Administrative Member
Hon'ble Mr. N. Prusty, Judicial Member

SUJAN KR. KARMAKAR

VS.

UNION ~~OF~~ INDIA & OTHERS

For the applicant : Ms. B. Mondal, counsel

For the respondents : Mr. S.P. Kar, counsel
Mrs. B. Banerjee, counsel (Pvt. respondent)

O R D E R

M.A. 278/2002

This M.A. has been filed for condonation of delay in filing the application for rehearing of the O.A. No. 605/1997 and in filing the application for addition of party.

2. From the ~~Documents placed before us~~ it is clear that the Hon'ble High Court's order dated 12.10.2001 in W.P.C.T. No. 889/2000 was handed over to the applicant on 4.2.2002 though the copy of the order was ready for communication on 21.12.2001. By the order of the Hon'ble High Court, the findings of the Tribunal in this case was set aside and liberty was given to the petitioner to add Arup Mistry as party to the proceedings before the Tribunal within a fortnight from the date of communication of that order and following such addition the Tribunal

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was directed to decide the matter afresh as expeditiously as possible.

3. The applicant has filed the M.A.No.81/2002 and the M.A.No.82/2002 i.e. for rehearing of the O.A. and for addition of party respectively on 11.2.2002 and he got the copy of the order of the Hon'ble High Court on 4.2.2002. Therefore, it can be said that the aforesaid M.As are filed well within the prescribed period of fortnight by the Hon'ble High Court in the order dated 12.10.2001.

4. However, this M.A. for condonation of delay has been challenged by the 1d. counsel, Mr. S.P. Kar for the official respondents and Mrs. B. Banerjee for the pvt. respondents on the ground that the certified copy of the order of Hon'ble High Court was ready for delivery on 21.12.2001, but the applicant did not care to obtain the same upto 4.2.2002. According to them the limitation period should start from 21.12.2001 i.e. the date on which the copy of the order was ready for delivery. They further submitted that this M.A. for condonation of delay was filed on 9.5.2002 i.e. much after the date of actual communication(i.e. 21.12.2001), therefore, it should not be entertained.

5. On our specific query, 1d. counsel for the applicant has submitted that the order of the Hon'ble High Court has not been communicated to the applicant by the Registry of the Hon'ble High Court and he came to know regarding the order only when it was handed over to him by the clerk on 4.2.2002. He further submitted that his client was indisposed and therefore,

he could not collect the order earlier. He also submitted that this application for condonation of delay was filed in pursuance of the order of this Tribunal dated 19.4.2002 in M.A.No.81/2002 and M.A.No.82/2002, on 9.5.2002.

6. In view of the above factual position, we do not find any delay in filing the application for rehearing of the O.A. and the application for addition of party since these were filed within 15 days from the date of receipt of the copy of the Hon'ble High Court i.e. on 11.2.2002 (copy of the order of the Hon'ble High Court was received on 4.2.2002). Therefore, this M.A.No.278/2002 need not be taken into consideration. Accordingly, the M.A.No.278/2002 stands disposed of.

M.A.No.81/2002 :-

This M.A. has been filed for fixing ~~a~~ date of hearing of the O.A.605/1997 in terms of the order dated 12.10.2001 passed by the Hon'ble High Court in W.P.C.T.No.889/2000.

Having heard the 1d. counsel for the parties, the M.A. is allowed. The O.A.No.605/1997 is fixed for hearing on 11.2.2003.

M.A.No.82/2002 :-

This M.A. has been filed for addition of party.

2. Having heard the 1d. counsel for the parties, the M.A. is allowed. Sri Arup Kumar Mistry be added as party in this case.

3. Copy of the reply, rejoinder etc. be supplied to the 1d. counsel for the pvt. respondent, Mrs. B. Banerjee within

2 weeks from today. Reply if any, be filed by the pvt. respondent within 6 weeks. The applicant is also given liberty to file rejoinder, if any, within 2 weeks thereafter.

M.A. 406/2002 :-

This M.A. has been filed for interim order to protect the interest of the applicant.

2. Having heard the ld. counsel for the parties, we are not inclined to pass the interim order as prayed for in the M.A. However, for the interest of justice, we direct that any action taken by the department during the pendency of this case shall abide by the result of this O.A.

3. The M.A. stands disposed of with no order as to costs.


MEMBER(J)

S.M.


MEMBER(A)