

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No. 15/2005 in O.A. No. 06/1998

This the 30th day of March, 2007

HON'BLE SHRI A.K. SINGH, MEMBER (A)

Union of India and others

...Reviewist

By Advocate: Shri Praveen Kumar for Sri Anil Srivastava

Versus

H.K.Singh

..Respondent

By Advocate:- Sri A. Moin

ORDER (BY CIRCULATION)

BY HON'BLE SHRI A.K. SINGH, MEMBER (A)

I have perused Review Application 15/2005 against the order passed by the Tribunal in O.A. No. 6/1998 on 1.10.2004 and the grounds mentioned therein.

2. The scope of review under Section 22 (3)(f) of the AT Act, 1985 read with Order XLVII, Rule (1) and (2) is far too narrow.

3. I have perused order dated 1.10.2004 and do not find any error apparent on the face of record or discovery of any new and important material, which, even after exercise of due diligence, was not available with the review applicant. If the review applicant is not satisfied with the order passed by the Tribunal, remedy would lie elsewhere. By way of this review, the review applicant seek to re-argue the matter, which is not permissible in law. The Apex Court in **Union of India Vs. Tarit Ranjan Das 2004 SCC (L&S) 160** observed as under:-

"The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope of review is rather limited and is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if

it was hearing an original application. This aspect has also not been noticed by the High Court."

4. Rule 17 of CAT (Procedure) Rules 1987 provides that no application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of order sought to be reviewed. A similar provision has been made in Andhra Pradesh Administrative Tribunal (Procedure) Rules, 1989. Relevant extract of the same is reproduced here below:-

"19. No application for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is sought."

5. The Full Bench of Andhra Pradesh High Court examined the issue of condonation of delay with reference to Section 22 (3)(f) of the Administrative Tribunal Act, 1985 in **G. Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others – 2005 (4) SLR 720** and held that the Tribunal has no jurisdiction to condone the delay in filing the review application, in view of Rule 19 of the Andhra Pradesh Administrative Tribunal (Procedure) Rules 1989 which is couched in negative form. The Hon'ble High Court relied on judgment of the Hon'ble Apex Court in **K. Ajit Babu Vs. Union of India –1997 (6) SCC 473** which reads as under:-

".....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the Tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an end to law suits and if the view of the Tribunal is accepted then proceedings in a case will never come to an end. We, therefore, find that a right of view is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation."

After examination of the entire issue with reference to the relevant provisions including Section 5 and 29 (2) of the Limitation Act, the Hon'ble High Court has held as under:-

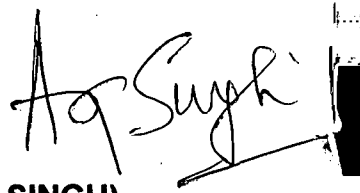
- "13. Rule 19 is couched in negative form and disables the persons from seeking review under Section 22 (e)(f) of the Act, in case review is not

filed within 30 days of the order. However, in the act nowhere it is stated the method or manner or time limit to file such review except Rule 19. In view of the same, the power of Tribunal to condone the delay under Section 21 of the Act is applicable only to the applications filed under Section 19, but the same cannot be made applicable to the review sought under Section 22 (3)(f). Sub Section (1) of Section 22 puts an embargo on exercise of such power by the Tribunal, namely that the power of the Tribunal shall be guided by the principles of natural justice and of any rules made by the Central Government. In the absence of any provisions prescribed for condoning the delay in the Rules, the Tribunal will not have jurisdiction to condone the delay in taking aid and assistance of Section 5 of the Limitation Act on the premise that Limitation Act is made applicable in view of sub-section (2) of Section 29 of the Limitation Act.

14. In view of above, we also hold Tribunal does not have powers under Rule 17 of CAT Procedure Rules 1987 to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Act or Section 29 (2) of the Limitation Act."

6. The Review Application under Section 22 (3) (f) of the Administrative Tribunal Act, 1985 could be filed within 30 days from the date of receipt of copy of the order sought to be reviewed, as prescribed in Rule 17 of CAT (Procedure) Rules, 1987. In this case the judgment was passed by the Tribunal on 1.10.2004. This review application has not been filed within time. The application for condonation of delay has also been filed which does not disclose sufficient and good ground for condoning the delay.

7. Having regard to the above, R.A. is dismissed in circulation.


(A.K. SINGH)
MEMBER (A)

HLS/-,