

Central Administrative Tribunal, Lucknow Bench, Lucknow

Review Application No.8/2012
in
O.A. 315/2010
This the 24th day of February, 2012

Hon'ble Shri Justice Alok Kumar Singh, Member (J)

1. Union of India through the Divisional Railway Manager, NER, Lucknow.
2. Divisional Personnel Officer, NER, Lucknow.
3. Assistant Divisional Accounts Officer, NER, Lucknow.

Applicants.

By Advocate: Sri R.K. Ranjan

Versus.

Ringi Lal, aged about 60 years, S/o Late Bhusni (Balmiki) R/o Sarafarzganj, Post Office Colonelganj, District Gonda.

Respondent.

ORDER (Under Circulation)

By Hon'ble Sri Justice Alok Kumar Singh, Member (J)

This Review Application has been filed under Rule 17(3) of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 22 (3) (f) of the AT Act, 1985 along with an application supported by an affidavit for condonation of delay in filing the review application.

2. The judgment in question was given on 04.11.2011 and its copy was prepared and issued on 09.11.2011.

3. Under Rule 17 (1) of the CAT (Procedure) Rules, 1987 the limitation of 30 days has been prescribed for filing a review application and there is specific negation that unless review application is filed within 30 days from the date of receipt of copy of order sought to be reviewed, no application for review shall be entertained. The rule is as under :-

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“Rule 17(1):- No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed.”

4. The prescribed limitation in the present case expired on 08.12.2011 whereas, it has been filed on 22.02.2012. Obviously, it has not been filed within the prescribed period of limitation of 30 days.

5. The law is settled on the point that the Tribunal does not has jurisdiction to condone the delay by taking aid and assistance of sub Section (3) of Section-21 of the Act of Section 29 (2) of the Limitation Act. In the case of **K.Ajit Babu Vs. Union of India 1997 (6) SCC 473** (para 4), it was clearly laid down that right of review is available to the aggrieved person if it is filed within the period of limitation. The matter of condonation of delay in such cases also came up before the Full Bench of Andhra Pradesh High Court in the case of **G. Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others -2005(4) SLR 720**. The matter was also examined by the Full Bench with reference to Section 22 (3) (f) of the AT Act, 1985 and other relevant provisions of the CAT (Procedure) Rules, provisions of the Limitation Act etc. and it was held that a Tribunal has no jurisdiction to condone the delay in filing the Review Application. It was laid down that the Tribunal will not have jurisdiction 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. It may be mentioned here that provisions of Rule 19 of A.P. Administrative Tribunal (Procedure) Rules, 1989 which are similar to above Rule 17(1) of CAT (Procedure) Rules, 1987 were also considered which are as under:-



"No application for review shall be entertained unless it is filed within 30 days from the date of receipt of copy of the order sought to be reviewed."

6. The significant paragraphs of the above case law are extracted herein below:-

"11. Even assuming that the Limitation Act is not expressly excluded by the Administrative Tribunals Act or the Rules made there under, we have to see whether the scheme of the special law i.e. in this case Administrative Tribunals Act/Rules and the nature of remedy provided therein are such that the legislature intended it to be a complete code by itself which alone should govern all the matters provided by it. If on an examination of the relevant provisions, it is found that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act and the Rules made there under. In our view, even in case the Act/ Rules do not exclude the provisions of Section 4 to 22 of Limitation Act by an express reference, it would nonetheless has to be examined whether and to what extent the nature of those provisions or the nature of the subject matter and the scheme of the Act/ Rules exclude their operations. The provisions of Section 3 of the Limitation Act envisage that a suit instituted appeal preferred and application made after the prescribed period shall be dismissed. Whereas Rule

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19 of the Rules which gives an pre-emptory command that no application for review shall be entertained unless it is filed within thirty days from the date of the date is of which the review is sought.

12. Even otherwise the provisions of the Limitation Act which unless expressly excluded would be attracted can be made applicable to the nature of the proceedings under the Act/Rules, but the same is not what Section 29(2) of the Act says because it provides that Section 4 to 24 (inclusive) shall apply only in so far as and to the extent to which they are not expressly excluded by such special or local law. If none of them are excluded all of them are applicable whether those sections are applicable or not is not determined by the terms of those sections, but by their applicability or inapplicability to the proceedings under the special or local law. Section 6 of the Limitation Act, which provides for the extension of the period of limitation till after the disability in the case of a person who is either minor or insane or an idiot, is inapplicable to the proceedings under the Act/ Rules. Similarly, section 7 to 24 are in terms of inapplicable to the proceedings under the Act, particularly in respect of filing of applications and the procedure to be followed under the Act/Rules. The applicability of those provisions

has, therefore, to be judged not from the terms of Limitation Act but by the provisions of the Administrative Tribunals Act, 1985 and the Rules made thereunder relating to the filing of original applications and review applications and their disposal to ascertain whether it is a complete code in itself which does not admit of the application of any of the provisions of the Limitation Act mentioned in Section 29(2) of the Act.

13. Rule 19 is couched in negative form and disables the person 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 shall be guided by the principles of natural justice and of any rules made by the Central Govt. In the absence of any provisions prescribed for condoning the delay either in the Act or in the Rules, the Tribunal will not have jurisdiction to condone the

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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 the view we have taken, we answer the reference holding that the Administrative Tribunal Act and the Rules made thereunder are impliedly infer that the Tribunal will not have jurisdiction 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. Thus 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 without any limitation then no decision would be final because 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. Therefore, the public policy demands that there should be an end of legal cases.

7. In view of the above, this Tribunal finds itself handicapped in condoning the delay and entertaining the review application. It is therefore, rejected.

Alok Kumar Singh
(Justice Alok Kumar Singh)
Member (J)

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Copy of order
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dated 24-2-12
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27-2-2012