

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

**Review Application No. 332/00013/2017
In Original Application No. 246 of 2010**

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This, the 31st day of July, 2017

**Hon'ble Mr. Justice V.C. Gupta, Judicial Member,
Hon'ble Mrs. P. Gopinath, Administrative Member.**

Dilip Kumar Yadav aged about 36 years, son of Sri Bachhraj, Resident of Mataideeh, Nai Bazar Tulsipur, District – Balrampur. Presently posted as Junior Telecom Officer (Civil), B.S.N.L., Civil Division, Gonda.

..... Applicant

By Advocate: Sri Praveen Kumar.

Versus

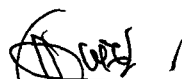
1. Bharat Sanchar Nigam Ltd. through its Chairman-cum-Managing Director, Sanchar Bhawan, 4th Floor, New Delhi – 110001.
2. General Manager, (Departmental Examination) Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi – 110001.
3. Assistant General Manager (Departmental Examination) Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi – 110001.
4. Director (Human Resources Development) Bharat Sanchar Nigam Limited, Corporate Office HQ. 4th Floor, New Delhi-110001.
5. Director (Building Works) Bharat Sanchar Nigam Limited, 222, Eastern Court, Janpath, New Delhi – 110001.
6. Chief General Manager, U.P. Eastern Circle, Bharat Sanchar Nigam Limited, C.P.M.G. Compound, Lucknow.
7. Chief Engineer (Civil), Bharat Sanchar Nigam Limited, U.P. East, Civil Zone, Lucknow.

..... Respondents.

ORDER (Under Circulation)

Per Hon'ble Mr. Justice V.C. Gupta, JM:

This review application placed for considering the same for admission under circulation. By means of this petition order passed by this Tribunal on 13.04.2017 in



O.A. No. 246 of 2010 is sought to be reviewed. The grounds are taken that in another case of Krishna Kumar the benefit of promotion was granted after deciding representation by the respondents. Though representation was also given by the applicant but the same was not decided. Applicant wants through this petition to re-hearing of the case on the grounds that order passed by this Tribunal is erroneous and bad in the eyes of law. This petition was also filed after expiring of the limitation with an application for condonation of delay.

2. We have gone through the record and judgment which is sought to be reviewed.

3. The scope of review is very limited and request for review can entertain only if any ground mentioned under order 41 R. 1 of the Code of Civil Procedure is made out. There is a distinction between mere erroneous decision and decision which can be characterised as vitiated by error apparent. Review is not appeal in disguise where erroneous decision reheard and corrected but lies for patent error. Error which is not self-evident and has to be detected by process of reasoning can hardly be called as error apparent on face of record. I fortify my view with the decision of the Hon'ble Supreme Court in the case **Sasi (dead) through LR Vs. Aravindakshan Nair & Ors. (2017) 4 SCC 692.**

4. The limitation to file review has been prescribed as 30 days under Rule 17 of CAT (Procedure) Rules, 1987 which is extracted herein below

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

In the light of this provision, Full Bench of the Hon'ble Andhra Pradesh High Court rendered judgment in the case of **G. Narasimha Rao vs. Regional Joint Director of School Education, Warrangal & Others, 2005 (4) SLR 720**, relevant portion of which is quoted herein below:

"Keeping the above guide lines in the background of the case, we have to see whether the Tribunal can entertain such review as and when approached with the plea of discovery of new and important fact or evidence; which was not brought to the notice of the Tribunal while passing the order which resulted in miscarriage of justice. If so, whether the Tribunal

can entertain such review and can condone the delay by taking the aid and assistance of sub-section (3) of Section 21 of the Act which enables the Tribunal to entertain the original application. It is well settled that exercise of power will be circumscribed by the relevant statutory provisions and the rules made thereunder."

While referring to Rule 17 it held:

"Rule 17 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 17. 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 17, 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 either in the Act or 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.

In the view we have taken, we answer the reference holding that the Administrative Tribunals 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.

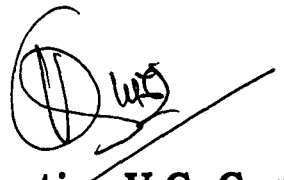
5. The perusal of affidavit given in support of application for condonation of delay reveals that certified copy of order sought to be reviewed was received by applicant on 20.04.2017 but this review was filed on 31.05.2017. The office marked the same is time barred only thereafter the same was presented on 12.07.2017 with application for condonation of delay.

6. In view of the aforesaid discussion, application for condonation of delay cannot be legally taken into consideration for preferring the review application after period of limitation. As such delay cannot be condoned in preferring review petition after prescribed limitation.



6. Hence, this review application cannot be entertained for reasons recorded herein above and is accordingly dismissed.


(P. Gopinath)
Administrative Member


(Justice V.C. Gupta)
Judicial Member

JNS/-