

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA,**

R.A. No. 25 of 2007 with MA 199 of 2007
(Arising out of OA 437 of 2006)

Date of order: 9.9.07

C O R A M

Hon'ble Ms Sadhna Srivastava, Member (J)
Hon'ble Shri S.N.P.N. Sinha, Member (A)

Union of India through D.G, Deptt of Post, New Delhi and Ors
Vs.

J.P. Mandal, S/o Late D.P. Mandal, Bhagalpur.

O R D E R

Sadhna Srivastava, M [J]:-

The applicants [respondents in OA 437 of 06] have preferred the instant RA on 30.3.2007 for review of the order dated 3.8.2006 on the grounds mentioned therein. The said RA has been filed beyond the period of 30 days. The period prescribed is 30 days under Rule 17 of the Central administrative [Procedure] Rules 1987 [hereinafter referred to as Rules, 1987].

2. One MA 199 of 07 has also been filed by the applicants for condonation of delay in filing RA. It is stated therein that the certified copy of the judgment was prepared on 18.8.2006, and the same was received by the Additional Standing Counsel on



31.8.2006. After receipt of copy of the judgment, the applicants consulted the matter with learned Senior Standing Counsel, and on his advice, RA has been filed. The applicants prays that there is no deliberate delay ^A of laches on their part. Therefore, the same may be condoned.

3. The question whether delay in filing the review application can be condoned has come up before the Tribunal as well as the High Court. This question has been dealt with by various Benches which are as follows:-

- (1) Full Bench of CAT, Principal Bench, New Delhi in the case of Nand Lal Nichani vs. UOI & Others , 1989 ATC (10) page 113
- (2) K. Ajit Babu & Others vs. UOI & Others, 1997 SCC (L&S) 1520,
- (3) Calcutta High Court in the case of Union of India and Others vs. Central Administrative Tribunal & Others , 2003 (2) SC T 301,
- (4) High Court of Andhra Pradesh in the case of G. Narasimha Rao vs. Regional Joint Director of School Education, Warangal & Others decided on 19.11.2003.

4. The view taken by the Tribunal & Calcutta High Court is that the delay in filing the application under Section 17 (1) of CAT



(Procedure) Rules, 1987 can be condoned. The Full Bench of Andhra Pradesh High Court has taken the view that the delay cannot be condoned. The Hon'ble Supreme Court has observed that RA has to be filed within 30 days as prescribed in Rule 17 of the CAT (Procedure) Rules, 1987.

5. We may at the out-set mention that this Tribunal has been provided with the power to condone the delay under Section 21 (3) in filing the OA if the applicant satisfies the Tribunal that he has sufficient cause to make the application within such specified period, whereas under the provision of Rule 22 (3) (f) and Rule 17 (1), no such provision has been prescribed for condoning the delay in filing the review application. Therefore, this Court cannot supplement or add anything in the statute itself unless it is provided. Rule 17 (1) of CAT (Procedure) rules does not speak of condonation of delay. Not only this, rule 17 (1) of the CAT (Procedure) Rules starts with negative/prohibitive clause, which reads as under:-

"17. Application for review:- (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."



6. The negative words in the above rule are clearly prohibitory and such words are ordinarily used as a legislative device to make a statute imperative. It is in this context that while interpreting Rule 19 of A.P. State Administrative Tribunal (which is analogous to Rule 17 of A.T. Act, 1985), the A.P. High Court has observed as follows.

" Rule 19 is couched in negative form and disables the person from seeking review under Section 22 (3) (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 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 delay in taking aid and assistance of Section 5 of the Limitation Act on the premise that the limitation Act is made applicable in view of Sub-section (2) of Section 29 of the Limitation Act."

7. The learned counsel for the applicants placed before us decision of the Hon'ble Supreme Court reported in 2006 [1] SCC 779 [UOI vs. Kali Das Batish] and 1999 [6] SCC 67 [Chief General Manager Telecom vs. G. Mohan Prasad] He seeks applicability of Section 29 of the Limitation Act for the purpose of condonation of



delay in RA filed beyond 30 days. We have considered the matter in entirety. CAT [Procedure] Rules, 1987 are statutory Rules. They have force of law. Section 33 of the Administrative Tribunals Act, 1985 specifically lays down that the provisions of Act shall have the effect, notwithstanding anything inconsistent therewith, contained in any other law or any instruments having effect by virtue of any law other than this Act. Therefore, the provisions of Section 29 of the Limitation Act cannot over-ride the provisions of Rule 17 of Rules, 1987.

8. Undisputedly, the Tribunal has power and jurisdiction to deal with RA on the same line as Civil Courts under Order 47 Rule 1 of Civil Procedure Code. However, when the question of limitation has to be decided by the Tribunal, it has to apply the provisions of Rule 17 [1] of Rules, 1987 and not the provisions of Section 29 of the Limitation Act. The reason is obvious. The Administrative Tribunals Act, 1985 provides provisions for limitation while dealing with application for review against the judgment delivered by the Tribunal. Therefore, we have to follow the said provision and not the provisions of Limitation Act.

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9. Our understanding is that while interpreting the provisions of Rule 17 (1) of CAT (Procedure) Rules, we cannot seek the aid of the provisions of Limitation Act. While reading Rule 17 (1), we must confine ourselves to the language of rule which provides us the legislative intent by using negative words " no application shall be entertained...." The rule does not confer any power upon the Tribunal to relax the period of thirty days in any manner or for any cause whatsoever. We feel that in the context of language of Rule, we can not import and say that limitation can be condoned, if sufficient cause is shown.

10. *As therefore*, we are of the opinion that we cannot apply the provisions of Limitation Act while dealing with an application under Section 17 of CAT (Procedure) Rules for the reasons as mentioned above. Consequently, we dismiss this RA along with MA 199 of 2007 on the ground that it is beyond the limitation period of 30 days as prescribed in Rule and as such, not maintainable.

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[S.N.P.N. Sinha] M [A]

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[Sadhna Srivastava] M [J]

/cbs/