

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

RP 38/202 & RP 39/99 &
PRE DELIVERY JUDGEMENT IN OA.NO. S35/99 & S34/99

Hon'ble Vice Chairman / Member (J) /
Member (A) may kindly see the above judgement for
approval / signature.

Ref " "

~~V.C./ Member (J) / Member (A)~~

~~Hon'ble Vice Chairman~~

~~Hon'ble Member (J)~~

~~Hon'ble Member (A)~~ 1-9

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.78/2000 in OA.NO.535/99

R.P.No.39/99 in OA.No.534/99

Dated this the 28th day of May 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

Smt.Godavaribai N.Pol ...Applicant

None for the applicant

vs.

Union of India & Ors. ...Respondents

By Advocate Shri R.R.Shetty
for Shri R.K.Shetty

TRIBUNAL'S ORDER

{Per : Shri S.L.Jain, Member (J)}

The Respondents in OA.NOs.534 and 535/99 which was decided vide order dated 6.9.1999 have filed the Review Petition No.39/99 and 78/2000 respectively. Review Petition No.39/99 is within the prescribed period of CAT (Procedure) Rules,1987. In respect of R.P.No.78/2000 it is stated that the copy of the order was received by them on 25.9.1999^{and} have filed this Review Petition after the prescribed period mentioned in Rule 17 (i) Central Administrative Tribunal'(Procedure) Rules, 1987 of 10 months and 16 days along with M.P. for condonation of delay.

DY ' ' ..2/-

2. On perusal of the delay condonation application, we find that in the public interest, judicial discipline demands for review. We are not able to gather any other fact or reason for delay condonation in the said application. We do not find any reason when there exists none to condone the delay, i.e. of 10 months and 16 days. As such, delay condonation application deserves to be dismissed and is dismissed accordingly. (AIR 1999 SC 40 - M.Satyanarayana Murthy & Ors. vs. Mandal Revenue Officer-cum-Land Acquisition Officer).

3. In view of the said finding, there is no necessity to record an opinion on merits of the Review Petition No.78/2000. If we have taken a contrary view, our opinion regarding merits of the Review Peititon is recorded below only with a view to attain finality of the litigation atleast at this level.

4. The respondents in para 3 of the Review Petition stated that at the time of filing the written statement dated 14.8.1999, the particular case law as reproduced through "All India Services Law Journal for August,1999" was not received. The respondents further wish to state that the decision of CAT PB, New Delhi judgement dated 15.7.1998 in OA.No.580/94 which is fully based on the decision of Apex Court is binding on this Tribunal under Article 141 of the Constitution of India.

5. In view of the said decision, the respondents are seeking the review of an order passed in OA.NO.535/99 on 6.9.1999.

DR/

..3/-

6. 2000 (2) A.I.SLJ 108 - Ajit Kumar Rath vs. State of Orissa & Ors., the Apex Court has held that :-

"The power of review available to the Tribunal is the same as has been given to a Court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error or law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule."

"Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgement."

It is stated in delay condonation application that "the undersinged and our counsel lost sight of the said judgement of the Hon'ble Supreme Court Order dated 24.10.1997 and order dated 15.7.1998 of the Hon'ble Principal Bench of CAT which is sincerely regretted".

(RJD)

7. 1997 (4) SCC 478 - Dokka Samuel vs. Dr. Jacob Lazarus Chelly, the Apex Court has held that "Omission on the part of counsel to cite an authority of law does not amount to error apparent on the face of the record so as to constitute ground for reviewing prior judgement".

8. The learned counsel for the respondents - Review Petitioner relied on an order passed by this Bench in Review Petition No.45/99, 50/99,53/99 on 30.3.2000, particularly on para 11 which is as under :-

✓ " Having regard to the undue delay in approaching this Tribunal and also claiming retrospective benefit from 1.1.1947 and particularly in view of the judgement of the Principal Bench and the Supreme Court mentioned above, we feel that our order granting 50% of arrears from 1.1.1947 requires to be reviewed and accordingly we review the same."

In view of the law stated by us pronounced by the Apex Court of the land, the order passed in Review Petition can not assist the respondents.

9. In the result, we do not find even any merit in reviewing the order passed by this Tribunal dated 6.9.1999. As such, delay condonation application as well as review petition (both) deserves to be dismissed and are dismissed accordingly. No order as to costs.

Shanta
(SMT.SHANTA SHAstry)

MEMBER (A)

S.L.Jain
(S.L.JAIN)

MEMBER (J)

mrj.

ddt 28.5.2002
~~order/Judgment despatched~~
to Applicant/Respondent(s)
on 22.7.2002

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