

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.2/2001 in OA.NO.283/2000

Dated this the 7<sup>th</sup> day of feb., 2001.

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

L.B.Mansukhani ...Applicant

V/S.

Union of India through  
Estate Manager, Old CGO Bldg.,  
101, M.K.Road, Mumbai. ...Respondents

Tribunal's Order by Circulation

This is a review application under Rule 17 of Central Administrative Tribunal (Procedure) Rules, 1987 in respect of an order passed by this Tribunal on 5.12.2000 in OA.No.283/2000.

2. The respondents/review petitioner claims that the review petition is filed within the period prescribed for limitation. The period prescribed for filing the review application is 30 days in view of Rule 17 (1) of the Central Administrative Tribunal (Procedure) Rules, 1987. The respondents have alleged that the copy of the judgement (order) is received in the office of the respondents on 13.12.2000. There is report of the Deputy Registrar that copy of the order was delivered on 8.12.2000 to the respondents' counsel. Thus, the period begins to run excluding 8.12.2000 from 9.12.2000 and not from 13.12.2000 when

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the copy was received in respondents' office. The respondents are represented by the counsel who received the copy for and on behalf of the respondents. The time lapsed for sending the copy by the respondents' counsel to the respondents cannot be a ground to calculate the period from the later date, i.e. 13.12.2000. The review is filed on 11.1.2001 certainly beyond 30 days. Hence review application is barred by time and is liable to be rejected as such and is rejected accordingly.

3. Assuming it that the review application is treated with in the prescribed period for limitation, if considered on merits, the ground for review in para 2 (a) & (b) is that the judgement in OA.No.576/98 which is not reported, hence through oversight, the counsel for the respondents could not bring the settled position of law to the notice of the Tribunal which has relied the Full Bench order in case of Ram Poojan & subsequent order/judgement dated 26.9.1998 in OA.No.1217/93. Thus, the respondents/review petitioner wants the rehearing of the matter which can not be a ground for review.

4. In addition to it, if the said contention is considered, it would be contrary to an order passed in OA.No.913/97 between the applicant- and the respondents which has become final and is reproduced as under :-

"We make it clear that the finding given by the original authority and the appellate authority that the applicant has subletted the premises is only for the limited purpose for cancelling the allotment and ultimately this question has to be decided by the Estate Officer under the Public Premises Act without being influenced by the orders of the Assistant Estate Manager and the appellate authority. The Estate Officer will have to give findings on the basis of material placed before him both by the department and the applicant. Then, of course, the judicial authority will independently consider the contentions of both the authorities. Therefore, the two questions whether the applicant has subletted the premises or not and whether he is liable to pay penal rent are left open to be decided by the Estate Officer, if and when respondents initiate action under Public Premises Act."

5. In the result, I do not find any merit in the review application also.

Hence, review application is liable to be rejected as barred by time and also on merits and is rejected accordingly.

*S.L.JAIN*  
(S.L.JAIN)

MEMBER (J)

mrj.