

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 2-7-87

Review Application No. 83/87 /86()
In Application No. 1278/86(F)

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Applicant

Tirumala Gowda V/s. Secy., Min. of Railways, N.D. & ers.

To

1. Sri.Tirumala Gowda,
No.86, Cholurpalya,
Magadi Read, Bangalore- 23.
2. Sh. M.S.Anandramu,
Advocate,
No.128, Cubbonpet Main Read,
B'lore- 2.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN

Review APPLICATION NO. 83/87

Please find enclosed herewith the copy of the Order/~~Index~~Order
passed by this Tribunal in the above said Application on 26-6-87.

Encl : as above.

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SECTION OFFICER
(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL:BANGALORE

DATED THIS THE 26TH DAY OF JUNE,1987.

PRESENT:

Hon'ble Mr.Justice K.S.Puttaswamy,

..Vice-Chairman.

And:

Hon'ble Mr.L.H.A.Rego,

.. Member(A).

REVIEW APPLICATION NUMBER 83 OF 1987.

Tirumale Gowda,
S/o Sri Annayappa, Aged about 48 years,
Working as Rakshak, Token No.79,
Southern Railway, Harihar (now Compulsorily
retired from service) and residing at
No.86, Cholurpalya,
Magadi Road,Bangalore-23.

.. Applicant.

(By Sri M.S.Anandaramu,Advocate)

v.

1. Union of India,
Ministry of Railways,
represented by its Secretary,
New Delhi.
2. The General Manager,
Southern Railways,
Park House,Madras.
3. The Chief Security Officer,
North, Southern Railways,
Bangalore-3-.

.. Respondents.

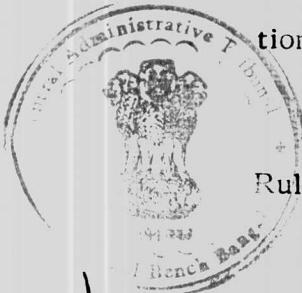
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This application coming on for hearing this day, Vice-Chairman made following:

O R D E R

In this application made under Section 22(3)(f) of the Administrative Tribunals Act,1985 ('the Act'), the applicant has sought for a review of an order made by this Tribunal on 31-10-1986 in Application No.1273 of 1986(F).

2. Under Rule 17 of the Central Administrative (Procedural)-Rules,1986 ('Rules'), the period of limitation for making an application



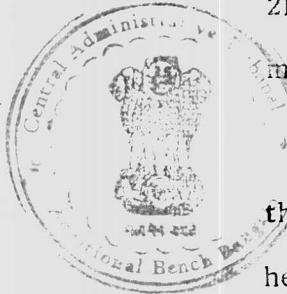
for review is 30 days from the date of the order. While the order was made on 31-10-1986, this application has been made by the applicant on 12-6-1987. Thus there is a delay of 194 days in filing the same. Hence the applicant has made an application for condonation of delay of 194 days in filing the review application.

3. Sri M.S.Anandarainu,learned counsel for the applicant passionately urges for condoning the delay, allowing the application for review, then restore and dispose the original application on merits.

4. The application for condonation of delay is made under Section 5 of the Limitation Act,1963 ('1963 Act'). Section 5 of the 1963 Act which applies to Courts cannot be invoked unless the same is made applicable either by the Act or the Rules. The Act and the Rules have not made applicable Section 5 of the 1963 Act to proceedings under the Act. In this view, Section 5 of the Act cannot be invoked by the applicant for condoning the delay. We must, therefore, hold that the application made by the applicant for condonation of delay under Section 5 of the 1963 Act does not assist him.

5. Whether Section 21(3) of the Act which provides for condonation of delay in making applications under Section 19 of the Act is at all applicable to review applications to which the period of limitation is prescribed by the Rules and not by Section 21 (1) of the Act, is extremely doubtful. But, we will assume that Section 21(3) of the Act is also applicable to a review application and examine the case of the applicant on that basis also.

6. In his affidavit, the applicant has asserted that he received the copy of the order on 13-1-1987 and thereafter he fell ill, till he filed this application on 12-6-1987. We are of the view that these



assertions except to the extent that he received the order copy on 13-1-1987 are vague and devoid of particulars. Even otherwise in proof of his plea that he was unwell, the applicant had not produced any evidence. We are of the view that on these grounds, we should hold that the applicant had not made out a sufficient cause for condoning the delay even if his application for the same is at all maintainable under the Act. If that is so, then we should reject the application for condonation of delay and the application for review without examining the merits.

7. But, notwithstanding of our above finding, we now proceed to examine whether the merits of the case really justifies a review of the order made on 31-10-1986.

8. We have perused the order made by this Tribunal in which it had held that it had no jurisdiction to entertain the application as the applicant was a member of the Armed Forces of the Union.

8A. Sri Anandaramu contends, that the order of removal by the disciplinary authority and the modification of punishment by the appellate authority had all been made before the Railway Protection Force was declared as an Armed Forces of the Union and therefore, there is a patent error in the order made by the Tribunal. We will assume that these submissions of Sri Anandaramu are correct and examine the case on that basis.

9. In the disciplinary proceedings, the disciplinary authority made his order on 12-8-1980 imposing the punishment of removal against the applicant. Against the said order, the applicant filed an appeal before the Appellate Authority on 10-9-1980 and that authority disposed of his said appeal on 7-3-1981 in which he modified the punishment to one of compulsory retirement. Sri Anandaramu who fairly produced the original order of the appellate authority

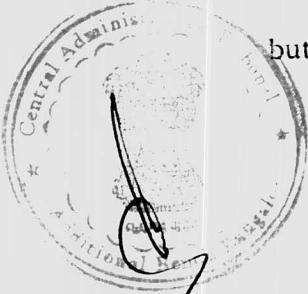


before us, which is dated 7-3-1981, did not rightly dispute that the same must have been received by the applicant in a few days thereafter.

10. What is now incontrovertible is that the order in the disciplinary proceedings against the applicant were all made well before 1-11-1982. If that is so, then as ruled by the Principal Bench of this Tribunal in V.K.MEHRA v. SECRETARY, UNION OF INDIA (ATR 1986 CAT 203), the original application made by the applicant under Section 19 of the Act, challenging the orders made against him before that date was clearly not maintainable and was liable to be rejected on that ground, even assuming that he was not a member of the Armed Forces of the Union as on those dates. We are of the view that on this ground we should decline to review the order made on 31-10-1986.

11. Even otherwise, in approaching this Tribunal against the final order of the appellate authority made on 7-3-1981 there was a delay of 5 years which had not been explained in the application. We are of the view that even if there was no period of limitation for making an application, then also, this Tribunal should decline to interfere with the order on the ground of undue delay and laches.

12. On any view of the matter, this is not a fit case in which we should unnecessarily review the order made on 31-10-1986, recall the same and restore the original application to its original file. On the other hand, this is a fit case in which we should allow the order to stand, if not for the reasons stated in the original order, but for the reasons which we have now stated in our order.



13. In the light of our above discussion, we reject I.A.No.I - application for condonation of delay - and the review application without notice to the respondents.



SD _____
W VICE-CHAIRMAN
22/6/89
-True Copy-

SD _____
W MEMBER(A)
26.6.89

H. S. Hoee
SECTION OFFICER 21
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE