

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO. 45 of 1998.  
MISCELLANEOUS PETITION NO. 466/ 1998.  
IN

ORIGINAL APPLICATION NO. 523/1991.

Monday, this the 12 th day of October, 1998.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,  
Hon'ble Shri D.S.Baweja, Member(A).

Union of India & Ors. ... Petitioners  
(By Advocate Shri S.S.Karkera) (Original Respondents)  
V/s.

Chandulal Hasham Bhai. ... Respondent.  
(By Advocate Shri R.S.Kulkarni) (Original Applicant)

O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

The Respondents have filed Review Petition No.45/1998 to review the order passed by this Tribunal in this O.A. on 4.9.1997. M.P. 466/98 filed for condoning the delay in filing the R.P. The learned counsel for the applicant opposed both the R.P. and the M.P. We have heard both the counsel regarding admission of R.P. and M.P.

2. This Tribunal by a considered order dt. 4.9.1994 held that the damage rent cannot be recovered from the Dearness Relief of the pension. The applicants (Original Respondents) did not challenge the Judgment of this Tribunal before the High Court or Supreme Court. It appears that, there is a subsequent full bench decision taking a different view. Now, therefore, the <sup>Petitioners</sup> applicants have approached this Tribunal by filing this Review Petition supported by the M.P. for condonation of delay.

3. So far as condonation of delay is concerned, it is not disputed that the R.P. should be filed within one month from the date of the original order. But, here the R.P. is filed in July, 1998 to review the order passed about more than

four years i.e. in September, 1994. On the face of it, the R.P. is hopelessly barred by time. The only explanation given for condonation of delay is that the Department was processing the papers for filing an appeal and in the meanwhile in 1997 the Full Bench decision has come taking a different view on the matter and therefore the department has come out with the present R.P. In our view, ~~for~~ a decision rendered by this Tribunal on 1.9.1994, subsequent decision of the Full Bench given in 1997 cannot give any cause of action for condoning delay of three years in filing R.P. Hence, in our view, no cause ~~much~~ less, sufficient cause, is made out for condoning the inordinate delay of four years. Hence, the ~~M.P.~~ is liable to be rejected. Consequently, the R.P. is rejected on the ground of limitation.

4. Incidentally, we may observe that the previous Judgment of a Competent Tribunal cannot be set at ~~not~~ by a Review Petition only on the ground that there is a subsequent decision by a Larger Bench. That may be a ground for the Department to challenge the order of this Tribunal before the competent forum, but certainly ~~it is~~ not a ground for moving the same Tribunal for review of the decision. The scope of review under order 47 Rule 1 of C.P.C. is very limited. Hence, even on merits we are not inclined to admit the R.P.

5. In the result, both the R.P. and M.P. are rejected at the admission stage. No costs.

  
(D.S. BAWEJA)  
MEMBER (A)

  
(R.G. VAIDYANATHA)  
VICE - CHAIRMAN

B.