

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

R.P.No.14/93

in

O.A.No.198/90

Date of Order: 3.2.1993

BETWEEN:

Sri P.K.Naidu

.. Applicant.

A N D

1. Secretary, Ministry of transport
Dept. of Surface, Transport,
Govt. of India, New Delhi.
2. The Director-General of Shipping
Jahag Bhavan, Walchand Hirachand Mard,
Bombay - 038.
3. The Surveyor-in-charge,
Mercantile Marine Dept.,
Port Area, Visakhapatnam.
4. The Principal Officer,
Mercantile Marine Dept.
Port Area, Madras.
5. The Pay & Accounts Officer(Shipping),
Marine House Hastings,
Calcutta - 22.

.. Respondents.

Counsel for the Applicant

.. Mr.P.S.N.Murthy

Counsel for the Respondents

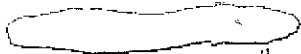
.. Mr.N.R.Devraj

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER(JUDL.)

This Review Petition is filed by the Petitioner under Section 22(3)(f) of the Central Administrative Tribunals Act, read with Rule 17 of the Central Administrative Procedures Rules, 1987, to review our judgement dated 30.9.92 in O.A.198/90. We proceed to decide this Review Petition by circulation under Rule 17(3) of Central Administrative Tribunals (Procedures) Rules.

The O.A. had been filed for a direction to the respondents to fix his family pension and for certain other reliefs. As



T. Chandrasekhara Reddy

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per our judgement dt. 30.9.92 we have held even though the orders of removal of the applicant are illegal and void ab-initio and as the said orders of the removal had become final as the same were not set aside by the competent authority within the period of limitation, that there was no other alternative except to dismiss the O.A.(198/90) as time barred. To substantiate our contention we have also relied on a judgement of the Full Bench of C.A.T.(1989-1991) Dhiru Mohan Vs. Union of India at page 498-499 in it is held as follows:-

"the next important point which falls for consideration is as to whether or not on the true import and construction of Section 21 it would be correct to take the view that there is no period of limitation in respect of an application assailing a void order or an order void ab-initio. In this connection, it is significant to notice that Section 21 does not make any distinction between an application impugning a void order. That apart, there is no provision express or implied in Section 21 or in any other provision of the act to warrant the view that the period of limitation prescribed by Section 21 is inapplicable in the case of an application challenging a void order.

For the reasons enumerated herein above, we are unable to countenance the view that an application under Section 19 of the Administrative Tribunals Act, 1985, impugning a void order is not governed by the period of limitation prescribed by Section 21 of the Act. The correct view, to our mind, appears to be that the period of limitation for an application filed under Section 21 of the Administrative Tribunals Act would regulate the question of limitation for an application filed under Section 19 of the Act irrespective of the fact whether it impugns an irregular order or illegal order or a void order. The question referred to us is answered accordingly

So, in view of the legal position, the O.A. had been dismissed. So, we see no error apparent on the face of the record.

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We have gone through the grounds urged in this Review Petition. The very same points that were urged in the O.A. are again sought to be raised in this Review Petition. The aim of the Petitioner appears to be to point out some error or the other, even though, according to us, there is none and to make the entire case re-opened and re-heard. It is needless to point out, review of a judgement is required when there is an error apparent on the face of the record. A court reviewing the judgement cannot act as a court of appeal and re-appraise the entire material before it.

In this context, it will be pertinent to refer to a decision reported in AIR 1979 SC 1047 Arbham Tuleswar Sharma Appellant Vs Airbam Pishak Sharma and others respondents wherein it is laid down as follows:-

" It is true there is nothing in Art 226 of the Constitution to preclude the High Court from exercising the power of review which inheres every court of plenary jurisdiction to prevent mis-carriage of justice or to correct grave and palpable errors committed by it. But there are definitive limits to exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence, which, after the exercise of diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found. It may also be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the sub-ordinate court."

The above decision applies on all fours to the facts of this RP. If the petitioner is aggrieved by our order dt. (30.9.92) passed in O.A. (198/90) the remedy of the petitioner lies by way of an appeal to the Supreme Court. So, absolutely, we see no grounds to interfere with our judgement dt. (30.9.92) passed

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in O.A. 198/90 and hence, this Review Petition is liable to be dismissed and is accordingly dismissed.

T. Chandrasekhara Reddy

(T. CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 3rd February, 1993

Dy. Registrar(Judl.)

Copy to:-

1. Secretary, Ministry of transport Department of Surface, Transport, Govt. of India, New Delhi.
2. The Director-General of Shipping Jahag Bhavan, Walchand Hirachand Marg, Bombay-038.
3. The Surveyor-in-charge, Mercantile Marine Department, Port Area, Visakhapatnam.
4. The Principal Officer, Mercantile Marine Department Port Area, Madras.
5. The Pay & Accounts Officer(Shipping), Marine House Hastings, Calcutta-22.
6. One copy to Sri. P.S.N.Murthy, advocate, CAT, Hyd.
7. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
8. One spare copy.

Rsm/-

11/3/93

R.P. 14/93

O.A. 198790

TYPED BY

COMPALED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO :V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN :M(A)

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY
:MEMBER(J)

AND

THE HON'BLE MR.

DATE: 3/2/-1993

ORDER/JUDGMENT:

R.P./C.P/M.A. No. 14/93

in

O.A. No.

198790

T.A. No.

(W.P. No.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

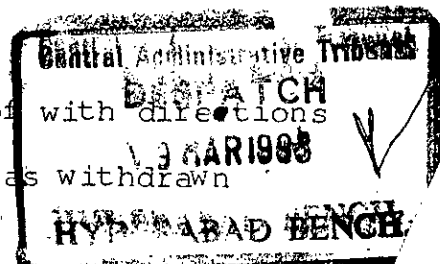
Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.



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Handwritten signature and date 11/11/93.