CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

M.A. No. 822 of 1997 in R.A Sr.No.2643/97

In

Original Application No. 141 of 1993

Between:

Bommidi Laxmi Tulasi, S/o Basaiah, Hindu
aged about 60 years Ex-Gangman, PWI Office
South Eastern Railway, Visakhapatnam

                                        ..Applicant

AND

1. Union of India, represented by its
    General Manager, South Eastern Railway,
    Calcutta-43

2. The Divisional Railway Manager,
    South Eastern Railway, Visakhapatnam

3. The Divisional Engineer(Spl)
    South Eastern Railway, Visakhapatnam

4. The Asstt. Engineer, S.E. Railway,
    Visakhapatnam-4

5. Permanent Way Inspector, Marshalling Yard,
    South Eastern Railway, Visakhapatnam

                                    .. Respondents

Counsel for the Applicant: Mr. P.B. Vijaya Kumar

Counsel for the RespondentsMr.N.R. Devaraj, Sr. CGSC

CORAM:

HON'BLE SHRI JUSTICE B.C.SAKSENA : VICE CHAIRMAN(J)

HON'BLE SHRI JUSTICE R. RANGARAJAN MEMBER (A)

ORDER

    The review petition No. 2643/97 in OA 141/93 alongwith
misc application No. 822/97 seeking condonation of delay in
filing the review application has come up for orders by
circulation. The order of which review is sought was passed
on 29.8.96 and almost after one year the review and the misc
application was filed on 21.8.97. We have perused the
affidavit in support of the misc. application.

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2. In the counter affidavit filed to the main OA it has been indicated that the applicant had been removed from service by an order passed on 26.2.93, though copy of the said order was not filed alongwith the counter affidavit. No rejoinder affidavit to the said counter affidavit had been filed in the OA. The learned counsel for the applicant as also the learned counsel for the respondents were heard when the OA came up for orders before us. In paragraph 3 of our order passed in the OA we had noted that the learned counsel for the applicant at the bar did not dispute the passing of the order of removal from service. We further noted that the OA has not been amended not any relief against the said order or removal has been prayed for. The learned counsel for the applicant further submitted that an appeal against the order of removal dated 26.2.93 has been filed by the applicant and it is pending with the departmental appellate authority. The learned counsel therefore submitted that a direction be issued for the disposal of the departmental appeal under section 19(4) of the Administrative Tribunals ACT.

3. On this aspect of the matter we had taken the view that u/s 19(4) of the Administrative Tribunals Act after the admission of the OA by the Tribunal, any proceedings under the relevant rule as to redressal of grievance in relation to the subject matter of the OA shall abate and therefore we held that the appeal should not have been filed. Since the order of removal from service has not been challenged in this OA we had dismissed the OA. The ground taken in the misc. application was that since the order of removal had not been served on the applicant no cause of action accrued to him. It has therefore been pleaded that since the order of removal from service has not been served on the applicant the delay in filing the application may be condoned. It has also been averred that the applicant was bed-ridden and could not contact the counsel and that he never preferred any appeal

except the representation dated 31.12.93 addressed to the
Senior Divisional Engineer to extend all the terminal
benefits on the basis that the applicant be deemed to have been
retired w.e.f. 31.3.93 with all benefits.

4. After having given our due consideration to the misc.
application seeking condonation of delay we do not find any
good reasons for condoning the delay. Misc. application No.
822/97 ia therefore rejected. As a matter of fact Rule 17
of the CAT Procedure Rules 1987 is in mandatory terms. It
reads as under:

17(1)

"No petition for review shall be entertained

unless it is filed within 30 days from the

date of receipt of copy of the order

sought to be reviewed."

If this provision is contrasted with some other rules in the
said Procedure rules it would be apparent that whenever the
rule making authority entrusted the power to the Tribunal to
pass orders even beyond the specified period for filing
certain applications. It has specifically been provided
that "on good and sufficient reasons " the Tribunal may pass
orders in this behalf. Reference may be made to Sec. 21(iii),
Rule 18, rule 15(ii) and rule 16(ii). In our considered
opinion in view of the position which emerges out of a
comparative reading of the various provisions referred to
hereinabove there is no power to condone the delay in filing
a review petition. The provision is mandatory and creates a
bar even on entertaining the review petition unless it is
filed within 30 days from the date of order of which the
review is sought. Knowledge of the order passedx by the
Tribunal of which the review is sought would not be the
criteria for computing the period of limitation of 30 days.

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5. Even otherwise no good ground to condone the delay

made out the Misc. application is rejected.   The review

application also does not make out any ground contemplated

by order 47 Rule 1 CPC which is applied in deciding the

review petition by the Tribunal. There is no error apparent

on the face of the record.   The review petition therefore

deserves to be dismissed on merits and is accordingly

dismissed.
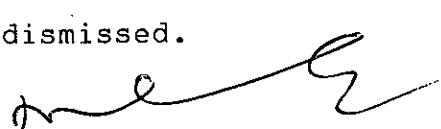
(R. RANGARAJAN)   (B.C. SAKSENA)
MEMBER(A)   VICE CHAIRMAN(J)

Dated: October 27 1997

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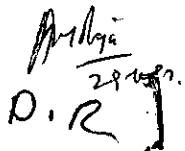
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

The Hon'ble Justice B.L. Jaksamma . VC(J)

And

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 27-10-97

ORDER/~~JUDGMENT~~

M.A/R.A/C.A.NO.
MA- 829/97
RA 826 82 in /97
O.A.NO. O-A 141/83

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions
RA.
Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR   II Court