

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

RA No.7/2007 in OA No.128/2001.

Jaipur, this the 12th day of October, 2007.

Mohd. Bashir Ahmed
S/o Late Mohd. Abdul Jabbar
Aged 66 years,
R/o B. No.867/51 Nai Basti Lohakhan
Ajmer.

... Applicants.

Vs.

1. Union of India
Through the Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication,
New Delhi.
2. The Chief Post Master General,
Rajasthan Circle,
Jaipur 302 007.

... Respondents.

: O R D E R (BY CIRCULATION) :

The applicant has filed this RA for reviewing the judgment rendered by this Tribunal on 31.10.2002 passed in OA No.128/2001. This Review Application is dated 29.06.2007 but the same was sent by Post subsequently and was entertained by this Tribunal on 3.8.2007. The said Review Application is not accompanied by any application for condonation of delay. In the affidavit which is accompanied with the Review Application, the ground of reviewing the judgment is on the basis of judgment rendered by the Supreme Court/the principal Bench CAT New Delhi/Punjab and Haryana High Court/CAT Chandigarh and Mumbai Apex judgments. At this



stage, it will be useful to quote para 5 of the affidavit which thus reads as under :-

"5. That this attached review application is based on section 22(3) of CAT. ACT-1985 and civil procedure order no.47 rule no. 1 on the discovery of new evidence of the respected Supreme Court/the principal Bench CAT New Delhi/Punjab and Haryana High Court/CAT Chandigarh and Mumbai Apex judgments and departmental rulings."

2. Since both the members who have given the judgment have relinquished the office, as such, the Review Petition was assigned to this Bench.

3. The question whether this Tribunal has got power to condone the delay where the Review Application has been filed beyond the period of 30 days as mentioned in rule 30 of Central Administrative Tribunal (Procedure) Rules, 1987 came for consideration before various Benches of this Tribunal as well as Hon'ble High Court and the matter on this point is no longer res-integra. The Full Bench of the Andhra Pradesh High Court in the case of G. Narasimha Rao vs. Regional Joint Director of School Education (W.P. 21738 of 1998) has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Administrative Tribunals Act or Section 29(2) of the Limitation Act. The matter was also considered by the Patna Bench of this Tribunal in RA No.99 of 2005 decided on 27.1.2006 (Union of India vs. Ramdeo Singh), whereby this Tribunal has considered the

fact of two contradictory judgments of Hon'ble Calcutta High Court and the Andhra Pradesh High Court and held that delay in filing the Review Application cannot be condoned. At this stage, it would be useful to quote relevant part of para 4 of the decision of the Apex Court in the case of K. Ajit Babu vs. Union of India, 1998 (1) SLJ 85 which is in the following terms :-

"... Besides that, the right of review is available if such application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case of all times to come. Public policy demands that there should be end to law suits and if the view of the Tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure, if filed within the period of limitation."

Thus, in view of the law laid down by the Apex Court as well as the decision rendered by the Full Bench of Andhra Pradesh High court and also the decision rendered by the Division Bench of Patna Bench of this Tribunal in the case of Ramdeo Singh (supra), we are of the view that this Tribunal has got no power to condone the delay where the Review Application has been filed after the prescribed period of 30 days. Moreover, the applicant has not filed any application for condonation of delay. Even if, for arguments shake, it is held that the Review Application can be entertained even after a period of 30

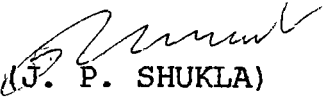
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days, the applicant has not given any explanation and made out any case for condonation of delay. Even on this ground the present Review Application cannot be entertained.

4. Further, even on merit, the applicant has not made out any case for reviewing the judgment in terms of Section 114 read with Orders 47 CPC which provision has been made applicable to the Review Petition filed before the Tribunal. The power can be exercised on account of some mistake or error apparent on the face of record or for any other sufficient reasons. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier that is to say the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. What the applicant by way of this Application is seeking is rehearing of the case as the judgment rendered by this Tribunal is erroneous in view of the judgment rendered by the Apex Court and High Court as mentioned by him in Para 5 of the affidavit as reproduced above. According to us the review is not a remedy and in case the judgment is wrong the remedy which was available to the applicant was to challenge the decision before the higher forum.

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5. Having not done so, we are of the view that the present Review Application is bereft of merit, which is accordingly dismissed.


(J. P. SHUKLA)
ADMINISTRATIVE MEMBER


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./