

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 13th day of November, 2006

RA No.12/2005 (OA No.78/99)
Misc. Application No.205/2005

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. J.P.SHUKLA, MEMBER (ADMV.)

1. Union of India through the General Manager,
Western Central Railway,
Jabalpur (MP)
2. Divisional Railway Manager, Western Central
Railway, Kota.

.. Applicants

(By Advocate: Shri Anupam Agarwal)

Versus

Abdul Gani s/o Shri Abdul Hamid, r/o Q.No.221-C,
Railway Workshop colony, Kota working as Assistant
Driver (A.C.) electrical Department, Western Railway,
Kota (Rajasthan).

.. Respondents

(By Advocate: Mr. S.K.Jain)

ORDER (ORAL)

This Review Application has been filed on 1st
June, 2005 seeking review of the dated 21.3.2003
passed in OA No. 78/99, Abdul Gani vs. Union of India
and ors. Alongwith this Review Application, the
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applicants have also filed Misc. Application No.205/2005 for condonation of delay in filing the Review Application.

2. 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.Nara Simha 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 day by taking aid and assistant 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 judgements 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

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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.

3. Even for arguments sake, it is presumed that application for condonation of delay is maintainable even then the Review applicants (respondents in the OA) have not made out any case. In the Misc. application No. 205/2005 for condonation of delay, the reason for condonation of delay is that they were processing the matter. At this stage, it will be useful to quote para 2 to 5 of the Misc. Application, which thus reads:-

“2. That after the order of learned tribunal dt. 21.3.2003 the matter was processed for filing of the writ petition and the same was filed

before the Hon'ble High Court, Jaipur Bench. It was registered as DB Civil Petition No.1450/04.

3. That aforesaid writ petition came up for admission before the Hon'ble High Court on 17.3.2005. At the time of admission the Hon'ble High Court made an observation for filing of review application before learned tribunal itself and as such the same was withdrawn to approach the learned tribunal by way of review application. A copy the order of Hon'ble High Court is already annexed with the review application as Annexure RA/3.
4. That after getting the certified copy of the order of Hon'ble High Court the matter was again processed for filing of review application. After such decision the railway advocate was engaged so as to file the review application. Who thereafter drafted the same and after signature of the authority it is being filed along with this application.
5. That the delay so occurred in filing of this review application is bona fide and deserves to be condoned for ends of justice."

It is on the basis of aforesaid averments the respondents in the OA have prayed that delay in filing the Review Application may kindly be condoned

4. According to us, the reasons given by the respondents (applicants in RA) does not constitute sufficient ground. Admittedly, the Writ Petition against the judgment dated 21.3.2003 was dismissed as withdrawn by the Hon'ble High Court vide order dated 17.3.2005 (Ann.RA³) when representation was made before the Hon'ble High Court that they propose to file Review Application before the Tribunal. The respondents are presumed to know the law where the Review Application has to be filed within 30 days. Even after disposal of the writ petition by the Hon'ble High Court, the respondents have not filed the Review Application within 30 days. As already stated above, the Review Application has been filed on

1.6.2005, admittedly, after a lapse of more than two years. Even on merits, the respondents have not made out a case for condonation of delay.

5. Accordingly, the Review Application and Misc. Application for condonation of delay are dismissed.



J.P. SHUKLA

Admv. Member



(M.L.CHAUHAN)

Judl. Member

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