

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

REVIEW APPLICATION NO. 15/2008
WITH
MISC APPLICATION NO. 136/2008
AND
MISC. APPLICATION No. 291/00207/2014

ORDER RESERVED ON 21.05.2014

DAE OF ORDER: 28 5. 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER

T.R. Verma son of Shri Kishan Lal Verma, aged about 63 years,
resident of A-79, Malviya Nagar, Jaipur.

... Applicant

(By Advocate: Mr. S.K. Jain

Versus

1. Union of India through Secretary, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, New Delhi.
2. State of Rajasthan through Secretary, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.

... Respondents

(By Advocate: Mr. V.D. Sharma)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The present Review Application has been filed for reviewing/recalling the order dated 22.08.2007 passed in OA No. 390/2005 (T.R. Verma vs. Union of India & Others).

2. The applicant has filed the Review Application on 25.04.2008.

The learned counsel for the applicant argued that while deciding the

Anil Kumar

OA, the Hon'ble Tribunal did not consider the prayer No. 8(b) and 8(c), which are quoted below:-

"8(b) Rule 6 of the Death cum Retirement rules in so far as it prescribes/permits continuation of an enquiry against a retired officer even though the incident took place more than four years before the date of institution of proceedings may kindly be declared ultra virus Articles 14, 16 and 311 of the Constitution of India and be quashed and struck down.

8(c) It may kindly be declared and directed that only the Central Government can act as a disciplinary in respect of a person appointed to the Indian Administrative Service and that the State Government cannot act as a disciplinary authority and therefore it can neither issue a charge sheet nor pass an order for holding a disciplinary enquiry against a person appointed to the Indian Administrative Service and that Rule 7 of the All India (Discipliner & Appeal) Rules, 1969 being ultra virus the All India Services Act 1951 as well as the Constitution of India be quashed and struck down."

3. He further argued that even on the part of inordinate delay the Tribunal has not given specific finding and reasoning. Therefore, the order dated 22.08.2007 passed in passed in OA No. 390/2005 (T.R. Verma vs. Union of India & Others) be recalled and the matter be heard on merit again.

4. The learned counsel for the applicant in RA referred to the judgment of the Hon'ble Supreme Court in the case of **Indian Charge Chrome Ltd. and Another vs. Union of India & Others, 2005 (4) SCC 67**. He drew our attention to Para No. 15 of the judgment, which is quoted below:-

"15. It is, true, as contended by learned counsel opposing the admission of the review petitions that review petitions should not be lightly entertained and mere fact that there were two views, one in terms of the majority and the other

Anil Kumar

dissenting, cannot be the basis for recalling the majority judgment and rehearing the matter, but that is not the ground for the conclusion we have reached, as aforesaid, for admitting the review petitions. We have found errors apparent on the record, as noticed above, namely,

1. Non consideration of the contention regarding illegality of the communication dated 30.6.2001.
2. Absence of opportunity to explain the order dated 14.1.1999.

From the perusal of this judgment, it is clear that in the Review Application in the said petition was admitted on the ground that the Hon'ble Supreme Court found that manifest errors have crept up in the judgment under review resulting in grave misconduct of justice.

5. However, before we decide the issue whether this Review Application can be admitted on merit, we have to examine whether the Review Application filed by delay can be entertained by the Tribunal.

6. The present Review Application has been filed by the learned counsel for the applicant on 25.04.2008 against the order of the Tribunal dated 22.08.2007. Therefore, the Review Application has been filed by delay. The learned counsel for the applicant has also filed a MA No. 136/2008 for condonation of delay.

7. In the MA for condonation of delay, the learned counsel for the applicant has taken the ground that the applicant had undergone a massive heart problem and was advised complete bed rest and he is completely under medication. Therefore, on account

Anil Kumar

of his illness, the applicant could not contact his lawyers. Therefore, if delay is not condoned, the applicant may suffer irreparable loss. Since the Tribunal has decided the case on one single ground, therefore, the Review Application is required to be heard on merit and the delay is liable to be condoned.

8. Heard the rival submissions of the parties and perused the documents on record. This Review Application has been filed beyond the period of limitation. The applicant has filed a MA for condonation of delay in filing RA. However, we are not convinced with the reasons given by the applicant for filing the Review Application beyond the period of limitation. No papers or medical certificates have been enclosed with the MA for condonation of delay regarding the illness of the applicant. Neither any paper were shown about the illness of the applicant during the course of arguments by the learned counsel for the applicant. Therefore, we are not satisfied with the reasons given by the applicant for condoning the delay.

9. Moreover, 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 decided on 19.11.2003) 2005 (4) SLR 720 has already held that the Tribunal has no jurisdiction to condone the delay by taking aid and assistance of Section 5 of the Limitation Act on the premise that the Limitation Act is made applicable in view of Sub Section (2) of Section 29 of

Amit Kumar

the Limitation Act. The Hon'ble High Court in Para No. 13 & 14 of the judgment has held:-

"13. In the absence of any provisions prescribed for condoning the delay either in the Act or in the Rules, the Tribunal will not have jurisdiction to condone the delay in taking aid and assistance of Section 5 of the Limitation Act on the premise that Limitation Act is made applicable in view of sub-section (2) of Section 29 of the Limitation Act.

14. In the view we have taken, we answer the reference holding that the Administrative Tribunals Act and the Rules made thereunder are impliedly infer that the Tribunal will not have jurisdiction to condone the delay by taking aid and assistance of either sub-section (3) of Section 21 of the Act or Section 29(2) of the Limitation Act."

10. Further the Hon'ble Supreme Court in the case of **K. Ajit Babu & Others vs. Union of India & Others**, 1997 SCC (L&S) 1520, in Para No. 4 has held that:-

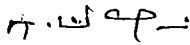
".....The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of the Code of Civil Procedure. Although strictly speaking Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an 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 the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an 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."

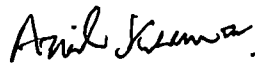
Anil Kumar

Thus the Hon'ble Supreme Court has held that the right of review is available to the aggrieved person if the Review Application is filed within the period of limitation. In this case, admittedly the Review Application has been filed beyond the period of limitation.

11. Therefore, In view of the ratio decided by the Andhra Pradesh High Court in the case of **G.Nara Simha Rao vs. Regional Joint Director of School Education** and the judgment of the Hon'ble Supreme court in the case of **K. Ajit Babu & Others vs. Union of India & Others** (supra), the MA No. 136/2008 for condonation of delay in filing the Review Application is dismissed. Consequently, this Review Application is also not maintainable being filed beyond the period of limitation.

12. In view of the aforesaid, the MA No. 291/00207/2014 for seeking interim relief is also dismissed.


(M. NAGARAJAN)
Member (J)


(Anil Kumar)
Member (A)

AHQ