

(Under Circulation)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

(THIS THE **01st** DAY of **June, 2018**)

**HON'BLE MR. JUSTICE DINESH GUPTA, CHAIRMAN
HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)**

Civil Misc. Delay Condonation Application No. 330/01235/2018

With

Civil Misc. Review Application No. 330/00025/2018

In

Original Application No. 330/001353 / 2016.

(On behalf of)

1. Union of India through Secretary, Government of India, DOP&T, New Delhi.
2. Post Master General, Bareilly Region, Bareilly.
3. Director Postal Services, Bareilly Region, Bareilly.
4. Superintendent of Post Offices, Badun Division, Budaun .

.....applicants

V E R S U S

Rakesh Kumar Shukla, S/o Late Sukhdev Prasad Shukla, R/o Village & Post Tulapur, via Devrajpur Shahjahanpur, posted as Post Master Grade 1, Ujhari Sub Post Office under Head Post Office, Budaun.

.....Respondent

**Advocate for the Applicants :-Shri L.P. Tiwari
Advocate for the Respondents:-**

O R D E R

Delivered by Hon'ble Mr. Gokul Chandra Pati, Member (A)

The instant Review Application is directed against the order dated 05.04.2018 (Annexure-1) passed by this Tribunal in OA No. 1353/2016 (Rakesh Kumar Shukla Vs. U.O.I. & Ors) and filed by the respondents in the OA (hereinafter referred to as respondents) and the respondent in the Review Application, was the applicant in the O.A (hereinafter referred to as applicant). The operative paras of the order dated 05.04.2018 is as follows:-

“14. In the circumstances, the impugned suspension order dated 27.05.2016 (Annexure A-1) is not sustainable under law as it is not legally valid after 90

days as per the rule 10 (7) of the CCS (CCA) Rules, 1965. Hence, the said order dated 27.05.2016 is set aside and quashed. The respondents are directed to reinstate the applicant with effect from 90 days after date of service of the suspension order dated 27.05.2016 on the applicant with consequential benefits. It is made clear that the respondents are at liberty to initiate fresh action to place the applicant under suspension as per the provisions of CCS (CCA) Rules, 1965, if it is deemed appropriate, by the respondents.

15. The O.A is allowed as above. No costs”

2. Main grounds mentioned in the Review Application to review the order dated 01.09.2015 of this Tribunal in OA No. 680/2007 are as under: -

- a. The authority competent to impose all penalties is Director Postal Service and for (i) to (v) penalties under Rule 11 of CCS (CCA) Rules 1965 is Head of the Division (Senior/ Superintendent of Post Offices) in accordance with Directorate letter dated 05.04.2012 (Annexure CA-2 to the Counter Affidavit) and thus the Head of Office of the Division is also Disciplinary Authority in the case of the applicant.
- b. As per Rule 10 (1) of CCS (CCA) Rules 1965, the Disciplinary Authority is empowered to place a Government servant under suspension.
- c. Since the Head of the Division is disciplinary authority in the case of the respondent (applicant in O.A) who belong to PM Grade 1 cadre, another disciplinary authority (Head of the Division i.e. Senior Superintendent of Post Bareilly and appellate authority (Director Postal Service, Bareilly) was

nominated to review the suspension case vide Regional Office, Bareilly memo dated 02.07.2007 in accordance with DOPT OM dated 07.01.2004.

- d. The Tribunal has committed an error in holding that the suspension order has not been extended after review by the Circle Review Committee as per the Rule 10 of CCS (CCA) Rules 1965, as such the order dated 05.04.2018 is liable to be reviewed.

3. The Review Application has been filed on 22.05.2018 after about 17 days, for which a delay condonation application No. 1235/2018 alongwith the affidavit has been filed with prayer to condone the delay mainly on following grounds: -

- i. After receipt of the certified copy of the order dated 05.04.2018, on the basis of material available on file, it was decided by the competent authority to file the Review Application.
- ii. Thereafter, the entire relevant records were made available to the counsel for drafting the review application and immediately thereafter the present review application has been filed without any further delay.
- iii. The delay in filing the review application is neither intentional nor deliberate but was due to departmental procedure.

It seen that no specific reason or the stages where it was delayed to obtain approval etc. have been mentioned in the application. The rule 17(1) of the CAT (Procedure) Rules, 1987 states, in this regard, as under: -

“17. - Application for review : -

(1). No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.”

In the case of K. Ajit Babu Vs. Union of India – 1997(6) SCC 473, while exercising provisions of the Act and Rules, Hon’ble Apex Court held that the right of review is available to the aggrieved persons on restricted ground as mentioned in the Order 47 of the CPC, if filed within the period of limitation. In view of the above, It is difficult for us to condone delay in filing the RA in absence of these details.

4. We have carefully considered the Review Application and find that apart from laches like delay, the grounds mentioned in the Review Application are not the grounds which are permissible under law to review the impugned order.

5. In view of the above, the Review Application is not maintainable both on the ground of delay, which cannot be condoned under the Administrative Tribunals Act 1985 and rules made there under and on the ground of merit. Hence the delay condonation application and the Review Application are liable to be dismissed. Accordingly, the Review Application as well as the Delay Condonation Application are dismissed.

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MEMBER (A)

CHAIRMAN

Anand...