

(Reserved on 11.10.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

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(THIS THE 15<sup>th</sup> DAY of November, 2018)

**HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)**  
**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)**

Civil Misc. Review Application No. 330/00008/2013

(On behalf of Respondent No. 1 to 3)

**In**  
**Original Application No. 330/00347 / 2005.**

Kailash Chand Sonkar & Others

.....applicants

**V E R S U S**

1. Union of India through General Manager (P), North Central Railway, Nawab Yusuf Road, Near Geep Flash Light Factory, Allahabad.
2. The Dy. Chief Personnel Officer, North Central Railway, Sangam Palace, VIIIth Floor, Civil Lines, Allahabad.
3. The Controller of Stores, North Central Railway, IIIrd Floor, Civil Lines, Sangam Palace, Allahabad.
4. Shri Jogendra Singh Pal, S/o Sri Chandra Pal Singh, working as Head Clerk at Dy. Chief Signals Telecom Engineers/Const. North Central Railway, Allahabad.
5. Shri Ram Nath Yadav, S/o Shri Ishwar Deen Yadav, working as Head Clerk, posted at CORE, Nawab Yusuf Road, Allahabad.
6. Shri Vikas Kumar, S/o Sri Chitranjan Prasad, working as Head Clerk posted at CORE, Nawab Yusuf Road, Allahabad.
7. Shri Vishawanath Baran, S/o Shri Ram Baran, working as Senior Clerk at Railway Recruitment Board, Nawab Yusuf Road, Allahabad.

.....Respondents

**Advocate for the Review Applicants :-**  
**Advocate for the Respondents:-**

**Shri Rishi Kumar**  
**Shri Rakesh Verma**

**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 31.03.2011 passed by this Tribunal in OA No. 347/2005 (Kailash Chand Sonkar & Ors Vs. U.O.I. & Ors) and filed by the respondents No. 1 to 3 in the OA (hereinafter referred to as respondents) and the respondents in the Review Application, was the applicants in the O.A (hereinafter referred to as applicants).

The operative para of the order dated 31.03.2011 is as follows:-

“12. In view of the above, the OA is allowed. Impugned order dated 28.01.05 is quashed and set aside. The order dated 18-02-2005 and 24-02-2005 in so far as it pertains to the promotion of private respondents to this OA is quashed and set aside. It is declared that the applicants shall be considered in their respective seniority ignoring the seniority of the private respondents and they would be considered for promotion as Head Clerk accordingly and their date of promotion as Head Clerk would accordingly be advanced and pay fixed notionally from the date of their revised promotion till their actual promotion and actual thereafter. Further, their seniority in the grade of Head Clerk shall also accordingly be revised and further promotion to the grade of Superintendent shall be considered from the date their respective juniors are promoted. Here again, the promotion shall be notional from the revised date of promotion to the grade of superintendent till their actual date of promotion and actual thereafter. It is however, open to the respondents to consider creation of supernumerary post to the private respondents in order to avoid their reversion and their promotion would be on adhoc basis till such time they would be promoted on regular basis on the basis of their seniority.”

2. Main grounds mentioned in the Review Application to review the order dated 31.03.2011 of this Tribunal in OA No. 347/2005 are as under: -

a. As the Railway Board letter dated 16.12.2004 has been accepted by the applicants, according to which maximum limit for physical joining of private respondents No. 4 to 7

could be granted within a week time as per the Railway Board letter dated 16.12.2004.

- b. The Railway Board has exempted the physical joining of the CORE employee as well as the staff working in construction organization of N.C. Railway by the Railway Board letters.
- c. The pleadings of the respondents have been considered in para 6 and 8 of the order, where it was submitted that as per the letter of the Railway Board dated 16.12.2004, the staff of Foreign Railway was given a target date.
- d. The Tribunal has in para 9,10 and 11 of the order has examined the Railway Board letters dated 16.12.2004 and the order dated 28.01.2005 of the respondents and the impugned orders have been wrongly quashed.
- e. The Tribunal did not consider the facts of the case while considering the OA..

3. The Review Application has been filed on 04.03.2013 after about 2 years of passing of the order dated 31.03.2011, for which the respondents have filed a delay condonation application No. 1029/2013 alongwith the affidavit with prayer to condone the delay.

4. The learned counsel for the respondents submitted that the review application could not be filed well within the time prescribed for filing the review on account of official procedure required to obtain approval of the competent authority. He further submitted that the review involved important issue, which could not be considered by this Tribunal, as explained in the Review Application. It was further pointed out that the respondents filed a

modification application to modify the direction of this Tribunal which was dismissed vide order dated 04.02.2013 on the ground that as per Rule 24 of the CAT (Procedure) Rules, 1987, there is no provision of filing modification. Hence, it was decided to file Review Application.

5. Learned counsel for the applicants cited a judgment of Full Bench of Andhra Pradesh High Court in the case of G. Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others – 2005(2) ALT 469 and submitted that the Tribunal has no jurisdiction to condone the delay under the Limitation Act in filing Review Application. He has also cited a judgment of Hon'ble Supreme Court in the case of Postmaster General and Others Vs. Living Media India Limited and Anther – (2012) 1 Supreme Court Cases (L&S) 649 and CAT Full Bench (Principal Bench) judgment in Raghava Reddy & ors Vs. UOI & Ors – AISLJ (2010) 1 page 1 in support of this contentions and submitted that the Review Application is liable to be dismissed on the ground of delay.

6. From the record, it is not clear if the modification application filed by the review applicants was within the stipulate time for filing the review application. Hence, it is clear that there is delay in filing the review application and the reasons furnished in the application for delay condonation are not convincing

7. We have carefully considered the submissions and the pleadings on learned counsels for both sides and perused the material on record.

8. Further, in the case of **K. Ajit Babu Vs. Union of India – 1997 (6) SCC 473 (Para 4)**, while examining the provisions of Section 22(3)(f) of the AT Act and the Rule 17(1) of CAT (Procedure) Rules and also order 47 Rule 1 of CPC, the Hon'ble Apex Court has held that the right of review is available to the aggrieved person on restricted grounds as mentioned in the Order 47 of the Code of Civil Procedure (in short CPC), if filed within the period of limitation. The grounds mentioned in the review application relate to appreciation of facts or interpretation of legal issues involved. These grounds are not permissible under Rule 1 order 47 of the CPC. This principle has also been reiterated by Hon'ble Apex Court in different cases.

9. For the reasons stated above, we do not find the reasons furnished in the application for delay condonation to be adequate enough to consider condonation of delay. Accordingly, the Misc. Application No. 1029/2013 for condonation of delay in filing the review application is liable to be rejected. Further, the grounds mentioned in the review application do not constitute mistake/error apparent on the face of the record or any of the permissible grounds for considering the review application. Hence, on merit also, the review application is found to be devoid of merit.

10. In the circumstances, as discussed above, the review application is dismissed.

MEMBER (J)

MEMBER (A)

*Anand...*