

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**M.A. No.100/3094/2016 In
O.A No.100/4062/2014**

New Delhi this the 2nd day of December, 2016

**Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. P. K. Basu, Member (A)**

Sumith. P.Applicant

(Argued by: Mr. Chava Badri Nath Babu, Advocate)

Versus

U.O.I. & Others ..Respondents

(By Advocates: Dr. Ch. Shamshuddin Kan for R-1
Mr.R.K. Gupta for R.2 & R.3)

ORDER (ORAL)

Justice M. S. Sullar, Member (J):

M.A. No.100/3094/2016

The crux of the facts and material, relevant for deciding the present Miscellaneous Application (MA), for restoration of **Original Application** (OA) bearing **No.100/4062/2014**, is that, since nobody appeared on behalf of applicant on 06.09.2016, when the OA was listed for hearing, so it was dismissed in default, vide order dated 06.09.2016, by this Tribunal.

2. Now the applicant has preferred the instant MA for restoration of the OA, on the ground, that his counsel could not appear in this case, on the relevant date, when the case was dismissed in default, as he has wrongly noted the date of hearing as 26.09.2016, instead of 06.09.2016. It was alleged

that, non-appearance by the counsel was not intentional but due to wrong noting of the date of hearing in his diary.

3. The respondents refuted the claim of the applicant and filed the reply, wherein it was pleaded that there is no merit in the OA. Moreover, applicant has not enclosed the copy of the relevant pages of diary of his counsel and no ground for restoration of the case is made out.

4. After hearing the learned counsel for the parties and going through the record, we are of the firm view that the instant MA deserves to be accepted.

5. As indicated hereinabove, the sole ground projected for non-appearance of counsel for the applicant, is the wrong noting of date of hearing in his diary. The contents of the application are supported by the affidavit of Chava Badri Nath Babu, Advocate, Supreme Court. On the basis of aforesaid ground, the applicant seeks to restore the OA. The ground pleaded by the applicant, to our mind, is a valid and sufficient ground to restore the OA. Moreover, it is now well settled principle of law that a *lis* between the parties, should be decided on merits instead of dismissing the same on technical grounds, particularly when no prejudice is going to be caused to the respondents in this regard.

6. In the light of aforesaid reason, the MA is allowed. The

order dated 06.09.2016 is hereby recalled. The OA is ordered to be restored to its original number.

(P.K. BASU)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
02.12.2016

Rakesh