

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**Review Application No.180/00023/2018
&
Miscellaneous Application No. 180/00383/2018
in
Original Application No. 180/01057/2017**

Monday, this the 14th day of May, 2018

CORAM:

**Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**

<p>1. Union of India, represented by Secretary and Director General, Department of Posts, Dak Bhavan, New Delhi - 110 001.</p> <p>2. The Chief Postmaster General, Kerala Circle, Thiruvananthapuram, Kerala.</p> <p>3. The Superintendent of RMS, RMS Calicut Division, Calicut - 673 032.</p>	<p>.....</p> <p style="text-align:right">Review Applicants</p>
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(By Advocate – Mr. K. Kesavankutty, ACGSC)

V e r s u s

1. M.T. Xavier,
Sorting Assistant, MACP II,
HRO, Calicut - 673 032,
Residing at Sharon,
33/6298-B, Chevayur P.O.,
Calicut - 673 017.
2. P.V. Rajendran,
Sorting Assistant, MACP III,
SRO, Palakkad - 678 002,
Residing at Rajeevani, Kokkal, Post Udma,
Kasaragode - 671 319.
3. Subramanian Chulli,
Sorting Assistant, MACP II,
SRO, Tirur - 676 101,
Residing at Valiyaveettil House,
Kattilangadi P.O.,
Tanur - 676 302.

4. A.M. Sajitha,
Sorting Assistant, MACP II,
HRO, Calicut - 673 032,
Residing at Areekot Methal House,
Chevayur, Calicut - 673 017.
5. Thelma Basil,
Sorting Assistant, MACP II,
HRO, Calicut - 673 032,
Residing at Machuveetil, Koodathumparamba,
Chathamangalam, Calicut - 673 601.
6. P.T. George,
Sorting Assistant, MACP II,
SRO, Kannur - 670 001,
Residing at Perumprayil, She-Geo,
Kakkat, Kannur - 670 005.
7. C. Sathi,
Sorting Assistant, MACP II,
SRO, Kannur - 670 001,
Residing at Sandhya Nivas, Palakulangara,
Thaliparamba P.O. , Kannur - 670 141.
8. K.P. Ramesan,
Sorting Assistant, MACP II,
SRO, Thalassery - 670 103,
Residing at Jyothis, Muttannur,
Edayannur P.O., Kannur - 670 595.
9. K. Rameshan,
Sorting Assistant, MACP II,
SRO, Thalassery - 670 103,
Residing at Sreeragam, Kuttikkakam P.O.,
Edakkad, Kannur - 670 663.
10. Queeni Sophia Sumithran,
Sorting Assistant, MACP II,
HRO, Calicut - 673 032,
Residing at 'Winkle', Karuvasseri P.O.,
Karaparamba, Calicut - 673 110.
11. S. Reghuvaran Nair,
Sorting Assistant, MACP II,
SRO, Palakkad - 678 002,
Residing at L 256 A, TNHB Colony,
Netajipuram, Neelikonampalayam,
Coimbatore - 641 033.

12. P. Somasekharan,
Sorting Assistant, MACP II,
SRO, Palakkad - 678 002,
Residing at Angadiyil House, Perur P.O.,
Ottapalam, Palakkad - 679 302.
13. K. Chenthamarakshan,
Sorting Assistant, MACP II,
SRO, Palakkad - 678 002,
Residing at Pallikandath House, M.G. 34,
Mythri Garden, Kazchaparamba Kannadi,
Palakkad - 678 701.
14. C. Surendran,
Sorting Assistant, MACP II,
SRTO, Palakkad - 678 002,
Residing at Drishya Shilpam, Palappuram P.O.,
Ottapalam, Palakkad - 679 103.
15. T.R. Santhosh Kumar,
Sorting Assistant, MACP II,
SRO, Shornur - 679 121,
Residing at No. 11/2 Postal Quarters, Shornur - 679 121.
16. M. Ravindra Kumar,
Sorting Assistant, MACP II,
SRO, Palakkad - 678 002,
Residing at Swaraj, Mahatma Nagar,
Industrial Estate P.O.,
Palakkad - 678 731.

..... **Respondents**

This Review Application having been considered by circulation, the Tribunal on 14.05.2018 delivered the following:

O R D E R (by circulation)

Per: U. Sarathchandran, Judicial Member

Order by circulation in RA No. 180/23/2018 and
MA No. 180/383/2018 for condonation of delay

1. The Review Applicants are the respondents in OA 1057/2017.

The aforesaid OA along with the connected cases were filed by the Postal employees working as Sorting Assistants / Postal Assistants being aggrieved

by the refusal by the respondents in counting the service rendered by them under the Reserve Trained Pool (for short RTP) in terms of the various judicial decisions of the different Benches of this Tribunal and also as per the direction contained in the order dated 01.10.2013 in OA 79 of 2011 and connected cases affirmed by the High Court of Kerala in OP (CAT) No. 114 of 2014 and connected cases as well as by Hon'ble Apex Court in SLP No. 25442 of 2017 and connected cases. This Tribunal vide Annexure-RA1 common order dated 10.01.2018 passed an order in the light of the aforementioned judicial decisions holding that the applicants in the OAs on hand are entitled to the benefits of those decisions especially in relation to fixing of their TBOP and pensionery benefits. The present Review Application was filed by the respondents in the OA seeking the deletion of the portion of the order granting pensionery benefits from Annexure-RA1 order.

2. Along with the RA, MA 383/2018 was filed by the Review Applicants praying for condoning the delay occurred in filing the RA.

3. It is settled law that a belatedly filed Review Application cannot be considered at all. In ***K. Ajith Babu and others v. Union of India and others (1997) 6 SCC 473*** the Apex Court ruled:

"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 these Code of Civil Procedure. Although strictly speaking the 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 party feeling adversely affected by the said decision. A party in whose favour a decision has been given can not monitor the case for all times to come. Public policy demands that there should be 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."

(emphasis supplied)

4. In the light of the above decision of the Apex Court, we are of the opinion that the right of review can be exercised by an aggrieved party only if it is filed within the limitation prescribed by the law. No sufficient reason has been stated in the Miscellaneous Application for condoning the delay. As per the above aforesaid ruling of the Apex Court, the right of review is available only if the Review Application is filed within the period of limitation. Therefore, MA 383/2018 is only to be dismissed. We do so.

5. In view of the dismissal of the MA for condonation of delay, it goes without saying that the RA has no feet to stand on. In view of the dismissal of the Miscellaneous Application for condonation of delay, the RA is not admitted and hence is dismissed.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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**(U.SARATHCHANDRAN)
JUDICIAL MEMBER**

List of Annexures of the Review Applicants

Annexure RA1 - True copy of the order dated 10.01.2018 in OA No. 1057/2017 of the Central Administrative Tribunal, Ernakulam Bench.

List of Annexures of the Respondents

Nil.
