CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Review Application No.180/00024/2018
&
Miscellaneous Application No. 180/00415/2018
in
Original Application No. 180/00968/2017

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

1. Union of India,
rep. by General Manager,
Southern Railway, Park Town,
Chennai - 3.

2. The Sr. Divisional Personnel Officer
Southern Railway, Trivandrum Division
Trivandrum. ..... **Review Applicants**

(By Advocate – Mr. Sunil Jacob Jose)

V e r s u s

1. N.R. Anil Kumar,
AC Technician, Grade-II, Marshalling Yard,
Ernakulam, Southern Railway, Trivandrum Division.

2. N.O. Jose,
ACCA, Marshalling Yard, Ernakulam,
Southern Railway, Trivandrum Division.

3. A.T. Varghese,
ACCA, Marshalling Yard, Ernakulam,
Southern Railway, Trivandrum Division.

4. P. Sreenivasan,
ACCA, Marshalling Yard, Ernakulam,
Southern Railway, Trivandrum Division.

5. P. Manikandan,
ACCA, Marshalling Yard, Ernakulam,
Southern Railway, Trivandrum Division.

6. P. Sreekumar,
AC Technician, Grade-III, Marshalling Yard,

Ernakulam, Southern Railway,
Trivandrum Division.

7. K.C. Haribabu,
AC Technician, Grade-III, Marshalling Yard,
Ernakulam, Southern Railway,
Trivandrum Division,

8. K.A. Johnson,
AC Technician, Grade-III, Marshalling Yard,
Ernakulam Southern Railway,
Trivandrum Division.

9. T.D. Padmakumaran Nair,
AC Technician, Grade-III, Marshalling Yard,
Ernakulam, Southern Railway,
Trivandrum Division.

10. Muhammed Mustafa.K.,
AC Technician, Grade-II, Marshalling Yard,
Ernakulam, Southern Railway,
Trivandrum Division.

11. K.B. Saji.,
AC Technician, Grade-II, Marshalling Yard,
Ernakulam, Southern Railway,
Trivandrum Division.

12. K.M. Sathyanarayanan,
ACCA, Marshalling Yard, Ernakulam,
Southern Railway, Trivandrum Division. ..... **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. 180/24/2018 and
MA No. 180/415/2018 for condonation of delay

1. The Respondent Railway and its officials in OA 968/2017 are the Review Applicants. They seek review of Annexure-RA2 order passed by

this Tribunal on 08.12.2017 wherein they were directed to give the benefits of order passed by this Tribunal in OA 417/2013 and connected cases and to re-fix the pay and other service benefits including MACP and arrears thereto and further to reckon the same for the purpose of calculating pension and pensionery benefits also.

2. MA No. 180/415/2018 is an application filed by the aforementioned Review Applicants seeking to condone the delay occurred in filing the Review Application. According to them, Annexure-RA2 order has caused prejudice to the administration as it grants more relief than what has been given to the applicants in OA 417/2013, who were found to be similarly placed as the applicants in the OA and hence on receipt of the copy of the Annexure-RA2 order the same was sent to the first Miscellaneous Applicant for necessary direction and after the discussions ensued at various levels, the first Miscellaneous Applicant was directed to obtain legal opinion regarding legal remedies available to the department in view of the conflicting decisions and therefore, soon after getting the legal opinion and discussions, the counsel for the Miscellaneous Applicants was instructed to prepare a draft review application. According to them, the aforesaid administrative procedure within the department caused some delay in filing the RA and hence, the Review Applicants seek condonation of delay so occurred.

3. It is trite that a Review Application filed belatedly can be considered only after the condonation of the delay occurred, if permissible under law.

4. No doubt, the present Review Application has been filed beyond the time prescribed. A belatedly filed Review Application, according to the law laydown by the Apex Court, 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 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 been 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."*
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> (emphasis supplied)

5. In the light of the above decision of the Apex Court, we are of the view that the right of review can be exercised by an aggrieved party only if it is filed within limitation prescribed by the law. Hence, we are not inclined to allow the Miscellaneous Application for condonation of delay. Accordingly, MA No. 180/415/2018 for condonation of delay is dismissed.

6. 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

(U.SARATHCHANDRAN)
JUDICIAL MEMBER

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List of Annexures of the Review Applicants

Annexure RA1	-	Photocopy of the common order dated 4/6/14 of this Hon'ble Tribunal in OA No. 417/13 & connected cases.
Annexure RA2	-	Photocopy of the order dated 08/12/2017 of this Hon'ble Tribunal in OA No. 968/17.

List of Annexures of the Respondents

Nil.

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