

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

...

Review Application No. 17/2012
 (Original Application No.15/2005)
 With Misc. application No.195/2012

Date of order : 12.03.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

1. Kishore Singh Punia, Elect (SK) S/o Sh. Narayan Singh Punia, aged 42 years, Caste Punia. Presently working C/o Garrison Engineer (AF), M.E.S., Jodhpur.
2. Raju N.C. Elect (HS) Sh. N.I. Chacko Cherian, Aged 41 years, Caste-Christian, Presently posted at A.G.E. (E&M), GE (NW), Fort Kochi, Kerala.

...Applicants

(By Advocate: Shri S.P.Sharma)

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
2. The Chief Engineer (Air Force), Camp Hanuman, Ahmedabad-308003.
3. Garrison Engineer (Air Force), M.E.S. Air Force Station, Jodhpur.
4. The Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training), North Block, New Delhi through its Director.

...Respondents

(By Advocate: Shri Rameshwar Dave)

ORDER**Per Mrs. Hina P.Shah, M(J)**

Heard learned counsel for both parties and perused the material available on record.

2. The present Review Application is preferred by the applicants under Section 22 (3)(f) of the Administrative Tribunals Act, 1985 for review/recall of the order dated 30th January, 2009 passed in OA No.15/2005 whereby the OA was dismissed being devoid of merit.

3. The matter was examined by this Tribunal at length and it was observed by this Tribunal that ACP Scheme designed vide OM dated 9.8.1999 is vires of the Articles 14 and 16 of the Constitution of India and fully sustainable in the eyes of law. It was further observed that the respondents have bonafidely acted as per the ACP Scheme and granted the ACP benefits to the applicants from the admissible date and the applicants have not made out a case in support of their claim. In the result, the OA being devoid of merit was dismissed.

4. Thereafter, the applicants filed D.B. Civil Writ Petition No. 9448/2011 before the Hon'ble High Court. As per the order of the Hon'ble High Court dated 6.1.2012, the

applicants were granted liberty to withdraw the Writ Petition with observations that:

“In case, if any such review is filed within 30 days from the date of this order by the writ petitioner, then the same be heard in accordance with law by the Tribunal.”

In view of the directions of the Hon’ble High Court the applicants were required to file the present Review Application before this Tribunal within 30 days from the date of the order dated 6.1.2002, but they have filed the present Review Application on 13th June, 2012 i.e. beyond the period prescribed by the Hon’ble High Court. The said direction is also analogous to the period as prescribed under Rule 17(1) of the CAT (Procedure) Rules, 1987, which is to the following effect:-

“No application for review shall be entertained unless it is filed within 30 days from the date of receipt of the order sought to be reviewed. ”

The Hon’ble High Court has categorically given finding that in case such review is filed within 30 days from the date of the order by the writ petitioner, then the same be heard in accordance with law. The applicants have not filed the present review application as per the finding of the Hon’ble High Court, therefore, the review application cannot

be entertained being filed after the period prescribed for such purpose.

5. Besides this, a Coordinate Bench of this Tribunal at Lucknow in RA No.332/23/2015-Raj Kumar vs. Union of India and Ors. has dealt with a similar controversy and vide order dated 8th July, 2015 in para 4 observed that:-

"4. 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 Rule 17(1) of CAT (Procedure) Rules and also order 47 Rule 1 of CPC, the Hon'ble Apex Court laid down that right of review is available to the aggrieved person on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation. The matter of condonation of delay in such case also came up before the Full Bench of Andhra Pradesh High Court in the case of G.Narsimha Rao vs. Regional Joint Director of School Education, Warangal and Others- 2005 (4) SLR 720. The matter was also examined by the Full Bench with reference to Section 22(3)(f) of AT Act, 1985 and other relevant provisions of the CAT (Procedure) Rules, provisions of Limitation Act etc. and it was held that a Tribunal has no jurisdiction to condone the delay in filing the Review Application. It was laid down that the Tribunal will not have jurisdiction to condone the delay by taking aid and assistance of either sub section (3) of section 21 of the Act or Section 29(2) of the Limitation Act. It may be mentioned here that provisions of Rule 19 of A.P. Administrative Tribunal (Procedure) Rules, 1989 which are similar to above Rule 17(1) of CAT (Procedure) Rules, 1987 were also considered which are as under:-

No application for review shall be entertained unless it is filed within 30 days from the date of receipt of a copy of order sought to be reviewed."

The Coordinate Bench further held that the right of review is available if such an application is filed within the period of limitation. If such a power to review is permitted without any limitation then no decision would be final because the decision would be subject to review at any time

at the instance of the party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Therefore, the public policy demands that there should be an end of legal cases. In view of above, the Tribunal found itself handicapped in condoning the delay and entertaining the review application, which was accordingly rejected.

6. Thus, it is evident that the applicants have not filed the present Review Application as per the time frame prescribed by the Hon'ble High Court vide order dated 6.1.2012 and also as per the period of limitation prescribed under Rule 17(1) of the CAT (Procedure) Rules, 1987. Though the applicants have filed a Misc. Application for condonation of delay in filing the review application, but it is clear that no power is available under the rules to condone the delay in filing the Review Application beyond the time prescribed under the provisions of the CAT (Procedure) Rules, 1987, therefore, the Misc. Application cannot be entertained.

7. Looking the matter in the light of above discussions, we are of the view that the Misc. Application for

condonation of delay and the Review Application deserve to be dismissed, which are accordingly dismissed.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

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