

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Review Application No. 02/2018

(Original Application No.187/2012)

With Misc. Application No.176/2018

RESERVED ON : 06.05.2019

PRONOUNCED ON: 09.05.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Prem Lal s/o Late Shri Kishan Lal, aged about 58 years, R/o Plot No.1 High Court Colony, Jodhpur (Raj.) Presently working on the post of Civilian MTD under respondent No.3

...Applicant

(By Advocate: Shri S.P.Singh)

Versus

1. Union of India through the Secretary, Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Senior Officer in Charge Administration, HQ South Western Air Command, IAF Sector-9, Gandhi Nagar, 382009.
3. Air Officer Commanding, No.32 Wing, AF Air Force Station, Jodhpur

...Respondents

(By Advocate: Shri Rameshwar Dave)

ORDER

Per Mrs. Hina P.Shah

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

2. The present Review Application is preferred by the applicant under Section 22 of the Administrative Tribunals Act, 1985 seeking review of the order dated 5th January, 2018 passed in OA No.187/2012 whereby the OA was allowed with following directions:-

".....The respondents are therefore, directed to re-fix the pay of the applicant w.e.f. 4.12.1989 accordingly. However, in view of the fact that there is inordinate delay on the part of the applicant in approaching this Tribunal, the pay fixation shall be allowed only notionally w.e.f. 4.12.1989 and actual benefit shall be accrued to him only from the date one year prior to filing of this OA i.e. from May, 2011 onwards. The respondents shall pass necessary orders accordingly and release the consequential benefits within a period of (3) months from the date of receipt of copy of this order."

3. By way of the present Review Application, the applicant avers that the actual benefits should be provided three years prior to filing of the OA instead of one year i.e. May, 2009 instead of May, 2011, as the same has been granted by this Tribunal vide order dated 11.4.2017 in OA No.361/2014 and also by the Hon'ble Apex Court in the case of Union of India and Ors. vs. Tarsem Singh vide judgment dated 13th August, 2008.

4. From perusal of the material on record, it reveals that OA No.187/2012 was disposed of vide order dated 5th January, 2018 and the present Review Application has been filed on 13.08.2018. The provision under Rule 17(1) of the

CAT (Procedure) Rules, 1987 regarding entertaining a Review Application prescribes as under:-

"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. "

5. Admittedly, the applicant has approached this Tribunal after expiry of the above mentioned prescribed period. A Misc. Application No.176/2018 for condonation of delay has been filed by the applicant stating that there is no deliberate or intentional delay on his part and he has meritorious case. Therefore, it would be in the interest of justice to adjudicate the case on merit and condone the delay of 6 months 8 days.

6. It would be relevant to mention here that 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 as under:-

"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 observed 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.

The above ratio was also followed by this Bench while deciding RA No.16/2012 and 17/2012 vide order dated 12.03.2019.

7. Thus, since the applicant has not filed the present Review Application as per the period prescribed under Rule 17(1) of the CAT (Procedure) Rules, 1987, therefore, it is liable to be dismissed. So far as the Misc. Application for condonation of delay in filing the Review Application is concerned, in view of the above discussions, it is clear that no power is available 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.

8. Considering 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

R/