

Central Administrative Tribunal, Allahabad Bench, Allahabad
Review Application No. 330/00040/2019

in Original Application No.83/2014

This the 1st day of October, 2019

Hon'ble Mr. Justice Bharat Bhushan , Member (J)

Union of India through its General Manager, N.E. Railway, Gorakhpur and another.

Applicant

By Advocate: Sri Chanchal Kumar Rai

Versus

Ram Mohan Srivastava s/o late Raj Bahadur Srivastava aged about 62 years resident of MIG-172/1, Tikait Rai Talab, LDA Colony, Raja Ji Puram, Lucknow.

Respondents

By Advocate: xxxxx

ORDER (Under Circulation)

HON'BLE MR. JUSTICE BHARAT BHUSHAN, MEMBER (J)

This Review Application No. 40/2019 has been filed by the respondents of O.A. No. 83/2014 (Ram Mohan Srivastaa Vs. Union of India and others) with delay condonation application No. 2139/2019, for reviewing the judgment and order dated 7.8.2019 passed by this Tribunal , whereby respondents were directed to make payment of all retiral dues including gratuity, commutation amount and remaining pension amount etc to the applicant within period of two months from the judgment. It was also directed that in case of failure to pay the aforesaid benefits within two months, respondents would be obligated to pay simple interest of 6% per annum.

2. This Review Application has been filed with delay. Delay Condonation Application has also been filed. The matter of condonation of delay of review application came up before the Full Bench of Hon'ble Andhra Pradesh High Court in the case of **G.Narasimha 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 the AT Act, 1985 and other relevant provisions of the CAT (Procedure) Rules, provisions of the Limitation Act etc. and it is 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 copy of the order sought to be reviewed."

3. Hon'ble Apex Court in the case of **K. Ajit Babu and others Vs. Union of India and others reported in 1997 (6) SCC 473**, the Hon'ble Apex Court has observed as under:-

" In the present case, the view taken by the Tribunal that the only remedy available to the affected persons is to file a Review of the judgment which affects them and not to file a fresh application under Section 19 of the Act. Section 22(3)(f) of the Act empowers the Tribunal to review its decisions. Rule 17 of the Central Administrative Tribunal (Procedure and Rules) (hereinafter referred to as "the Rules") provides that no application for review shall be entertained unless it is filed within 30 days from the date of receipt of the copy of the order sought to be reviewed. Ordinarily, right of review is available only to those who are party to a case. However, even if we give wider meaning to the expression "a person feeling aggrieved" occurring in Section 22 of the Act whether such person aggrieved can seek review by opening the whole case decided by the Tribunal. 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 an end 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."

4. Thus 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 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 to legal cases.

5. It is therefore, evident that delay has vitiated this review application and delay cannot be condoned by this Tribunal. Accordingly, delay condonation application No. 330/02139/2019 in filing review Application No. 330/00083/2014 is rejected.

6. As regards merit of the case, it is evident that scope of review is very limited. The Hon'ble Apex Court in the case of **Meera Bhanja vs. Nirmala Kumari Choudhury reported in (1995) 1 SCC 170**, has observed that review proceedings cannot be considered by way of an appeal and have to be strictly construed to the scope and ambit of Order 47 Rule 1 of CPC and review petition is required to be entertained only on the ground of error apparent on the face of record. The Hon'ble Apex Court has also been pleased to observe that while deciding the review, the matter cannot be re-apprised and only typographical error apparent on record can be reviewed.

7. Record reveals that a criminal case of minor nature has been pending against the opposite party/applicant in the O.A. for last 19 years. The applicant retired in 2011. Till November, 2013, even formal charges were not framed. Para 11 of the judgment under review indicates that no departmental proceedings were pending against the applicant. The relevant portion of the judgment under review is reproduced as below:-

"11. Admittedly, in the present case, no departmental proceedings is pending against the applicant. It is also evident that no judgment in criminal case has been passed against the applicant. Pension Rule also do not permit department to withheld retiral benefits of applicant.

12. In the light of the judgment of Hon'ble Apex Court in the case of **Sate of Jharkhand and others Vs. Jitendra Kumar Srivastava (supra)**, and in the case of **Gudari Prasad Vs. State of U.P. and others (Writ -A No. 14073 of 2012)** of Hon'ble High

Court of Allahabad, the act of respondents in withholding the retiral benefits of applicant is not legally sustainable. Accordingly, O.A. deserves to be allowed and is allowed. The respondents are directed to make payment of all retiral dues including gratuity, commutation amount, remaining pension amount etc. to the applicant within a period of two months from today. Thereafter, the applicant shall be entitled of simple interest of 6% per annum. No order as to costs."

8. Considering all facts and circumstances, review application is not sustainable. Hence review application is dismissed on the ground of delay as well as on merit. No order as to costs.

**(Justice Bharat Bhushan)
Member (J)**

HLS/-

