

**.CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH, CHENNAI**

**MA No.357/2018 in & RA No.7/2018 in
ORIGINAL APPLICATION No.316/2016**

Dated this Tuesday, the 31st day of July, 2018

CORAM: HON'BLE MS. B.BHAMATHI, MEMBER (A)

K.Siva,
S/o M.Krishnan,
No.105, East Mada Street,
Tiruvanmiyur, Chennai 600 041. ... Applicant

(By Advocate M/s Smarvi Legal)

Versus.

- 1.Union of India, Rep., by
its Director (WM),
Department of Telecommunications,
Wireless Monitoring Headquarters,
New Delhi 110 062.
- 2.The Engineer,
Department of Telecommunications,
Wireless Monitoring Organization,
Kandanchavadi, Perungudi Post,
Chennai 600 096. ...Respondents.

(By Advocate Mr.J.Vasu)

ORDER ON REVIEW APPLICATION BY CIRCULATIONPER:-HON'BLE MS.B.BHAMATHI, MEMBER (A)

The applicant in OA No.316/2016 has filed the MA 357/2018 seeking condonation of delay of 48 days in filing the Review Application No.7/2018 which is filed seeking review of the order dated 31.01.2018 in OA No.316/2016 and render justice. The reasons stated in the MA for delay is that the applicant was not having all the related papers and the order was also received by him only in March 2018 and hence there is a delay of 48 days in filing the review petition.

2. We first deal with the prayer for condonation of delay. We reproduce Rule 17 (1) of CAT (Procedure) Rules, 1987 as under :-

"17. Application for review

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

3. Rule 17 is couched in negative form and disables the person from seeking review under Section 22(3)(f) in case review is not filed within 30 days of the order. The peremptory command in the section is that the power of review under section 17 is subject to the condition of filing review petition within 30 days from the date of receipt of the order beyond which the Tribunal has no power to entertain a review application.

4. This issue was decided in **K.Ajit Babu and Others v. Union of India and Others {(1997) 6 SCC 473}** delivered on 25.7.1997. The relevant extracts of the judgment are as follows :-

“.....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..... 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 cannot 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”.

5. In **G.Narasimha Rao v. Regional Joint Director Of School** before the Full Bench by Hon'ble Andhra Pradesh High Court decided on 19.11.2003, this issue has been gone into and relying upon the judgment in **K.Ajit Babu (supra)**, the Court held as follows :-

“11. Even assuming that the Limitation Act is not expressly excluded by the [Administrative Tribunals Act](#) or the Rules made thereunder, we have to see whether the scheme of the special law i.e. in this case [Administrative Tribunals Act](#)/Rules and the nature of remedy provided therein are such that the legislature intended it to be a complete code by

itself which alone should govern all the matters provided by it. If on an examination of the relevant provisions it is found that the provisions of the [Limitation Act](#) are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act and the Rules made thereunder. In our view, even in case the Act/Rules does not exclude the provisions of [Section 4 to 22](#) of Limitation Act by an express reference, it would none the less has to be examined whether and to what extent the nature of those provisions or the nature of the subject matter and the scheme of the Act/Rules exclude their operations. The provisions of [Section 3](#) of the Limitation Act envisage that a suit instituted, appeal preferred and application made after the prescribed period shall be dismissed. Whereas Rule 19 of the Rules which gives an preemptory command that no application for review shall be entertained unless it is filed within thirty days from the date of the order of which the review is sought.

12. Even otherwise the provisions of the [Limitation Act](#) which unless expressly excluded would be attracted can be made applicable to the nature of the proceedings under the Act/Rules, but the same is not what [Section 29\(2\)](#) of the Act says because it provides that [Sections 4 to 24](#) (inclusive) shall apply only insofar as and to the extent to which they are not expressly excluded by such special or local law. If none of them are excluded all of them are applicable whether those sections are applicable or not is not determined by the terms of those sections, but by their applicability or inapplicability to the proceedings under the special or local law. [Section 6](#) of Limitation Act, which provides for the extension of the period of limitation till after the disability in the case of a person who is either minor or insane or an idiot, is inapplicable to the proceedings under the Act/Rules. Similarly [Sections 7 to 24](#) are in terms inapplicable to the proceedings under the Act, particularly in respect of filing of applications and the procedure to be followed under the Act/Rules. The applicability of those provisions has, therefore, to be judged not from the terms of limitation Act but by the provisions of the [Administrative Tribunals Act](#) 1985 and the Rules made thereunder relating to the filing of original applications and review applications and their disposal to ascertain whether it is a complete code in itself which does not admit of the application of any of the provisions of the [Limitation Act](#) mentioned in [Section 29\(2\)](#) of the Act.

13. Rule 17 is couched in negative form and disables the person from seeking review under [Section 22\(3\)\(f\)](#) of the Act, in case review is not filed within 30 days of the order. However, in the Act nowhere it is stated the method or manner or time limit to file such review except Rule 17. In view of the same, the power of Tribunal to condone the delay under [Section 21](#)

of the Act is applicable only to the applications filed under Section 19, but the same cannot be made applicable to the review sought under Section 22(3)(f). Sub-section (1) of Section 22 puts an embargo on exercise of such power by the Tribunal, namely that the power of the Tribunal shall be guided by the principles of natural justice and of any rules made by the Central Government. In the absence of any provisions prescribed for condoning the delay either in the Act or in the Rules, the Tribunal will not have jurisdiction to condone the delay in taking aid and assistance of Section 5 of the Limitation Act on the premise that Limitation Act is made applicable in view of Sub-section (2) of Section 29 of the Limitation Act.

14. In the view we have taken, we answer the reference holding that the Administrative Tribunals Act and the Rules made thereunder are impliedly infer 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.

6. The same view was taken by the Hon'ble Orissa High Court in **Rajayya Bosi vs. Union of India & Ors. (96 (2003) CLT 230).**

The Court held as follows :-

3. Point No. (i) : Rule 17(i) of the Central Administrative Tribunals (Procedure) Rules, 1988 lays down that no petition for review shall be entertained unless it is filed within thirty days from the date of the order of which review is sought. There is no dispute that the review application was filed beyond thirty days. The Tribunal in its order dated 12.5.1997 recorded a finding that there was delay of "at least 125 days" in filing the review application. Having recorded such a finding, it condoned the delay with an observation that the department had been able to make out a case for it.

Shri Ramdas's contention is that in absence of any provision empowering the Tribunal to condone the delay, the review application ought to have been rejected at the threshold as admittedly it was filed beyond 30 days. According to him, whether there was sufficient cause for condoning the delay is a secondary question, inasmuch as that question would arise only when there exists jurisdiction to entertain an application filed beyond time. In this connection, he placed reliance on the judgment of the Supreme Court in **Director General v. General Secretary, Central Government** AIR 1999 S.C. 553. In the aforesaid case, the Tribunal condoned the delay and proceeded to dispose of the main case. The

Supreme Court in paragraph-4 of the judgment observed as follows :

"...The said view of the Central Administrative Tribunal is not in consonance with the law laid down by this Court in Ajay D. Panalkar v. Pune Telecom Deptt. wherein it has been laid down that the Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 has no jurisdiction to adjudicate upon the finding of the Industrial Tribunal. In view of the said decision, the order dated 3.3.1992 passed by the Central Administrative Tribunal rejecting the review application cannot be upheld and the said review application must be allowed..."

The above clearly shows that the Tribunal has no power to entertain the review application if it is filed beyond the time stipulated.

4. For all the reasons aforesaid, the Tribunal has no power to entertain the review application as admittedly it was filed beyond the prescribed period of limitation. The Tribunal has accordingly acted without jurisdiction in entertaining the review application. As the order dated 12.5.1997 condoning the delay is without jurisdiction the impugned substantive order dated 26.2.1998 has to be set aside. We order accordingly.

In the result, the writ petition is allowed".

7. In view of the above, this Tribunal has no jurisdiction to entertain the Review Application, admittedly filed beyond the 30 day limit and the Review Application is not maintainable on grounds of delay.

8. Accordingly, MA for condonation of delay in filing RA is dismissed. Consequently, the RA is also dismissed.

(B.BHAMATHI)
MEMBER (A)
31.07.2018

M.T.