

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No.R.A:350/00004/2016
(O.A:1179 of 2012)

Date of order : 31. 3. 2016

Present : Hon'ble Mr. A.K. Patnaik, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SWAPAN KUMAR KESH
VS.
UNION OF INDIA & OTHERS

O R D E R (By circulation)

Per Ms. Jaya Das Gupta, A.M.

The applicant, Swapan Kumar Kesh has filed this R.A. against the order passed in O.A.No.1179/2012 mainly on the following grounds:-

- (i) The judgment of this Tribunal dated 19.01.2016 suffers from errors on the face of the record;
 - (ii) The errors both in law and facts have been made while dismissing the original application.
2. The order dated 19.01.2016 against which the R.A. has been filed was received by the applicant on 21.01.2016 and this R.A. was filed on 22.02.2016 i.e. after one month.
 3. The scope of review under Order 47 Rule 1 of CPC is very limited. The review of judgments may be allowed on three grounds namely:-
 - (a) Discovery of new and important matter of evidence which after exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or the order was made.
 - (b) Some mistake or error apparent on the face of the record or for any other reason (which has been interpreted to be analogous to the other reasons specified above)
 4. The grounds for review made in this R.A. does not fall into any of the above category.
 5. In this regard we take note of the judgment passed by the Hon'ble Andhra Pradesh High Court (Full Bench) in the matter of **G. Narasimha Rao v. Regional Joint Director of School Education, Warangal and others** in Writ Petition No.21734 of 1998 decided on 19.11.2003, reported in **2005(4) SLR 720**, which held as under:-

Head Note

"Constitution of India, Article 226-Administrative Tribunal Act, 1985- State Administrative Tribunal(Procedure) Rules, 1989, Rule 19-Limitation Act, 1963, Section -5-Review-Delay-Condonation of-Review filed beyond 30 days- Act and Rules give no power to Tribunal to condone the delay -Tribunal has no jurisdiction to condone the delay."

"13. Rule 19 is couched in negative form and disables the person from seeking review under Section 22(e)(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

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review except Rule 19. 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 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 Tribunal 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. It is also pertinent to mention in the decision of the Hon'ble Apex Court in **K. Ajit Babu and others vs. Union of India & Others**, reported in 1997(6) SCC 473, which held as under:

Head Note

Service Law-Administrative Tribunals Act, 1985 – S.22(3)(f)-Application for review filed under-Held, attracts the principles contained in Or.47 R.1 of CPC and also the period of limitation prescribed in R.17(1) of CAT(Procedure) Rules – Central Administrative Tribunal(Procedure) Rules, 1987, R.17(1) – Civil Procedure Code, 1908, Or. 47. R(1)."

4.....Section 22(3)(f) of the Act empowers the Tribunal to review its decisions. Rule 17 of the Central Administrative Tribunal(Procedure) 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 has to be 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 the Code of Civil Procedure. Although strictly speaking 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 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. 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."

7. In view of such direction from the Hon'ble Apex Court and the Hon'ble Andhra Pradesh High Court, as this review application has been made beyond a month of receipt of certified copy of this order dated 19.01.2016 in O.A.1179/2012 and as grounds for review are not covered under Order 47 Rule 1 of CPC, the present review application is dismissed. No cost.

(J. DAS GUPTA)
Administrative Member
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(A.K. PATNAIK)
Judicial Member