

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No. 8093 of 2015

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P.C: (per the Hon'ble Sri Justice Dilip B.Bhosale)

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This writ petition impugns the order, dated 12.03.2015, passed by the Central Administrative Tribunal, Hyderabad Bench (for short 'the C.A.T.') on an application bearing MA No.020/00028/2014 in RASR No. 5641 of 2013 in OA No.790 of 2008 rejecting the petitioners' prayer for condonation of delay in filing the review application.

This is the second round of litigation. On earlier occasion, the petitioners had filed a writ petition bearing No.27947 of 2010 against the order, dated 31.08.2010, passed by the C.A.T. in O.A.No.790 of 2008 holding that respondent No.1 would be entitled to all benefits including promotion and other emoluments by reckoning his service from 02.02.1974, when he was working as a Junior Research Assistant, and should be regularized from that date. Writ petition was dismissed *vide* order, dated 14.02.2012. Feeling aggrieved and dissatisfied by the said order, the matter was carried to the Supreme Court by the petitioners in S.L.P. The S.L.P. was disposed of by the following order, dated 11.01.2013.

"After arguing the matter at some length, Mr.Sidharth Lutra, learned ASG, appearing for the petitioners seeks leave to withdraw this special leave petition reserving liberty to the petitioners to approach the High Court to urge that the writ petitioner/respondent

cannot be compared with Dr.F.M.Pradhan, Mr.A.C.Jena and G.Ramachandraiah, juniors in the cadre of Junior Research Assistant, as the said three persons were appointed as Assistant Directors against vacancies reserved for direct recruitment while the petitioners had taken the promotion route to that cadre. The special leave petition is accordingly dismissed as withdrawn with the liberty prayed for. We make it clear that we have expressed no opinion about the merits of the contention sought to be urged in the proposed review petition.”

In view of the above order of the Supreme Court, the petitioners filed review petition, bearing Rev.W.P.M.P.No.6934 of 2013 in W.P.No.27947 of 2010. This Court disposed of the review petition with the following observations:

“We have heard the learned counsel for the review petitioners and have gone through the judgment and order passed by the Tribunal. The Division Bench has not passed any separate order and merely accepted the judgment and order of the learned Tribunal, which was assailed in the writ petition. While doing so, the Division Bench has recorded the findings of the learned Tribunal. There was no separate decision by this Court and the actual decision was rendered by the learned Tribunal. Accordingly, we do not find there has been any error not to speak of apparent error on the face of the records. We, therefore, dismiss the review application. However, liberty is given to the review petitioners to approach appropriate forum, if so advised.”

Thereafter, the petitioners filed miscellaneous application, as aforementioned, which came to be dismissed by order, dated 12.03.2015, impugned in the present writ petition. While rejecting the application for condonation of delay in filing the review petition, the C.A.T. relied upon the Full Bench Judgment of this Court in **G.Narasimha Rao Vs. Regional Joint Director of School Education, Warangal and others** and held that it has no powers to condone the delay. The question that fell for consideration of the Full Bench was “whether the State Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 has jurisdiction to condone the delay in filing the review petition, notwithstanding the negative language voiced in Rule 19 of the Andhra Pradesh Administrative Tribunal (Procedure) Rules, 1989?”

From the question that fell for consideration of the Full Bench, it is clear that it was arising from the Administrative Tribunals Act, 1985 and the provisions contained in the Andhra Pradesh Administrative Tribunal (Procedure) Rules, 1989.

In this backdrop, learned counsel for the petitioners invited our attention to the judgment of the Full Bench of the Central Administrative Tribunal, Principal Bench, New Delhi in **Raghava Reddy, AE (Civil) and others Vs. Union of India (UOI) and others**, which considered the question “whether delay in filing review application in C.A.T. can be condoned in view of the fact that there was difference in view of two High Courts?”

It appears that the Full Benches of the Calcutta High Court and Gujarat High Court had taken differing views on the question and in view thereof, the Full Bench of the Central Administrative Tribunal, Principal Bench, New Delhi considered both the judgments and the relevant provisions of the Act and the Rules extensively in the light of several judgments, those were cited before it, and held that the Tribunal has the power to condone the delay in filing the review application on sufficient cause being shown.

Learned counsel for the petitioners also brought to our notice the judgment of the Supreme Court in **State of M.P. Vs. Anshuman Shukla**. In this case, the Supreme Court considered the question “whether the provisions of the Limitation Act are applicable to the provisions of the Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983?”. The Supreme Court while dealing with the question held that Section 5 of the Limitation Act is applicable to Section 19 of the Act of 1983 and observed that no express exclusion has been incorporated therein, and there is neither any evidence to suggest that the legislative intent was to bar the application of Section 5 of the Limitation Act on Section 19 of the Act of 1983.

Thus, in view of the judgment of the Full Bench of the Central

Administrative Tribunal, Principal Bench, New Delhi and the judgment of the Supreme Court in **Anshuman Shukla** (supra), learned counsel for the petitioners prayed for setting aside the order impugned in the present writ petition with direction to the C.A.T. to consider the petitioners' miscellaneous application seeking condonation of delay in review application in original application afresh.

Learned counsel for respondent No.1 could not and did not oppose the prayer made by the learned counsel for the petitioners and submitted that all contentions on merits as well as on the question of limitation be kept open to be raised before the C.A.T.

In the result, we set aside the order, dated 12.03.2015, passed by the C.A.T. Miscellaneous application (MA No.020/00028/2014) is restored to file. The C.A.T. is directed to consider the said application afresh in the light of the observations made in this judgment, in particular, the judgment of the Full Bench of the Central Administrative Tribunal, Principal Bench, New Delhi. The C.A.T. shall endeavour to dispose of the miscellaneous application as expeditiously as possible and preferably within two months from the date of receipt of this order. All contentions on merits as well as on the question of limitation are kept open.

Writ petition is accordingly allowed and disposed of as such.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B.BHOSALE,J

A.RAMALINGESWARA RAO,J

Dt:07.04.2015

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