

The Hon'ble Sri Justice V. RAMASUBRAMANIAN
and
The Hon'ble Sri Justice M. GANGA RAO

+ WRIT PETITION No.40232 OF 2017

Date:28.12.2017

Between:

%S. Narayana Vavilapalli S/o. Ramu,
Aged about 28 years, Hall Ticket No.12500852,
R/o. Bheemavaram Village, Sathamavalasa Post,
Merakamudidam Mandal, Vizianagaram District.

...Petitioner

Vs.

\$ The State of Andhra Pradesh,
Represented by its Principal Secretary to
Technical Education Department,
Secretariat, Hyderabad and others

... Respondents

! Counsel for Petitioner : M/s. P.V. Krishnaiah

^ Counsel for Respondent No.1 : G.P. for Services I (AP)
Counsel for Respondent No.2 : Sri C. Srinivasa Baba
Standing Counsel for R-2

< Gist :

> Head Note :

? Cases Referred : Nil



HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No.40232 OF 2017

ORDER: (per V. Ramasubramanian, J)

Aggrieved by the dismissal of his Review Application by the Andhra Pradesh Administrative Tribunal on the ground that it was barred by limitation, the applicant before the Tribunal has come up with the above writ petition.

2. Heard Mr. P.V. Krishnaiah, learned counsel for the petitioner. Mr. C. Srinivasa Baba, learned counsel takes notice for the Service Commission.

3. The petitioner herein filed an application in O.A. No.1578 of 2016 on the file of the Andhra Pradesh Administrative Tribunal seeking certain reliefs. The application was dismissed by the Tribunal by an order, dated 10.07.2017.

4. Contending that the copy of the order dated 10.07.2017 was admittedly dispatched on 03.08.2017, the petitioner filed an application for review on 21.08.2017 claiming that the review was filed within 30 days of receipt of the copy of the order.

5. But the review application was dismissed by the Tribunal by invoking a decision of the Full Bench of this Court in G.Narasimha Rao vs. Regional Joint Director of School Education [ALT 2005 (2) 469]. Therefore, the petitioner is before us.

6. We do not think that the decision of the Full Bench is on the question about the starting point for the period of limitation. The very reference of the Full Bench in G. Narasimha Rao's case was on the short question as to whether the Tribunal will have the jurisdiction to

condone the delay or not. In Paragraph-14 of its decision, the Full Bench answered the reference holding that the Administrative Tribunals Act and the Rules made thereunder, impliedly inferred that the Tribunal will not have jurisdiction to condone the delay.

7. In other words, the question as to whether the starting point for the period of limitation will be the date of the order or will be the date of communication of the order, was not at all in issue before the Full Bench in G. Narasimha Rao's case. Therefore, the Tribunal appears to have applied a ratio which is not applicable to the facts of the present case and refused to entertain the review application.

8. As pointed out above the date on which the Tribunal pronounced the order was 10.07.2017. The claim of the petitioner is that the order was dispatched on 03.08.2017. The petitioner admittedly filed the review application on 21.08.2017. For deciding as to whether the application was within the period of limitation or not, the Tribunal applied the question whether the Tribunal can condone the delay or not.

9. If it is true that the copy of the order of the Tribunal was dispatched only on 03.08.2017, the review filed on 21.08.2017 was obviously within the period of limitation. The expression "date of order" appearing in Rule 19 should be construed only as the date on which the order was communicated. As a matter of fact, the review cannot be filed without enclosing a copy of the order. Therefore, in almost all branches of law, the expression "date of the order" is always construed as the date of communication of the order.

10. Hence, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the Tribunal for consideration of the Review Application on merits.

11. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

December 28, 2017
KTL

