

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12505 of 2018

ORDER: (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, the petitioner has challenged the order dated 31st July 2017, passed in M.A.No.1698 of 2015 in O.A.SR.No.7999 of 2015 by the learned Administrative Tribunal.

2. It is pertinent to note that the petitioner earlier challenged the order dated 2nd November 2015, passed in M.A.No.1698 of 2015 in O.A.SR.No.7999 of 2015, vide W.P.No.3890 of 2017 and the same was disposed of by setting aside the said order. Consequently, the matter was remanded to the Tribunal to consider the delay of 2 years and 8 months and pass orders afresh after hearing both the parties.

3. The impugned order is passed by the Bench headed by the Chairman of the Tribunal. In para 2 of the order, it is stated that the High Court did not disturb the reasoning of the Tribunal in the order dated 2nd November 2015 for refusing to condone the delay.

4. It is to be noted that when the order dated 2nd November 2015 has been set aside by this Court, then it cannot be said that the High Court has accepted the reasoning of the Tribunal in the order dated 2nd November 2015 for refusing to condone the delay.

5. In view of above, without going into the said controversy, we hereby again set aside the order dated 31st July 2017, passed by the Tribunal in M.A.No.1698 of 2015 in O.A.SR.No.7999 of 2015 and remand the matter to the Tribunal to consider the delay of 2 years and 8 months and pass reasoned order after hearing both sides.

6. We hereby make it clear that this matter shall not be taken up by the same Bench which has passed the order dated 31st July 2017.

7. The writ petition is accordingly allowed. No order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.



SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

11th July, 2018

ajr