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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 25.11.2019

+ **W.P.(C) 12368/2019**

**TULSI RAM**

..... Petitioner

Through: Mr. Sumit Bansal, Advocate  
with Mr. Prateek Kohli,  
Advocate.

versus

**UNION OF INDIA & ORS.**

..... Respondents

Through: Mr. Jagjit Singh, Senior  
Standing Counsel with Mr.  
Preet Singh, Advocate and Mr.  
Vipin Chaudhary, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE G.S. SISTANI**

**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

### **J U D G M E N T**

**G.S.SISTANI, J. (ORAL)**

**C.M. No.50610/2019 (exemption)**

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

**W.P.(C) No.12368/2019**

Notice to show cause as to why the petition be not admitted.

2. Mr. Jagjit Singh, learned Senior Standing Counsel for the respondents enters appearance and accepts notice.

3. The present petition is directed against order dated 22.05.2019 and order passed in review application dated 19.08.2019 by the Central Administrative Tribunal ('Tribunal' for short).

4. Mr. Sumit Bansal, learned counsel for the petitioner submits that O.A. filed by the petitioner was allowed by an order dated 06.04.2017. On an application seeking review of the aforesaid order by the respondent, the same was allowed by an order dated 08.03.2019 and the matter was adjourned to 23.04.2019 for fresh hearing.

5. On 23.04.2019, when the matter was listed, the applicant was not represented before the Tribunal and the Registry was directed to issue notice to the applicant returnable on 23.07.2019. Mr. Bansal contends that however, without awaiting the date fixed in the case i.e. 23.07.2019, the matter was taken-up and heard in the absence of the petitioner on 22.05.2019; and the O.A. was dismissed. Mr. Bansal submits that this fact was brought to the notice of the Tribunal by filing a review application, which was also dismissed without taking the submission of the applicant into account.

6. Mr. Jagjit Singh, learned senior standing counsel for the respondents submits that there is no infirmity in the order passed on merits; however, he is unable to justify as to how the matter was listed prior to the date fixed.

7. We have heard learned counsel for the parties.

8. While it may not be unusual for a matter to inadvertently get listed on a date prior to the date for which the notice was issued, what surprises us is that when the matter got listed and came-up before the Tribunal on a date prior to 23.07.2019, without paying heed to this

fact, the O.A. was dismissed. Even when this error was pointed-out by way of a review application, the same was also dismissed. The concluding part of order dated 08.03.2019 by which review of the original order was allowed reads as under:-

*“5. Having found merit in the aforesaid contentions of the review applicants, we recall the order dated 06.04.2017 passed in OA No.1157/2013 and the OA is restored to its original number. Accordingly, the RA is allowed and the OA shall be heard on merits. List the case on 23.04.2019. MA No.3865/2017 also stands disposed of.”*

9. On 23.04.2019, the following order was passed in the matter:-

*“Counsel for the applicant has been shown as Sh. Yogesh Sharma. Learned counsel is present and states that he is no longer the counsel in this matter. Registry is directed to issue notice to the applicant in this matter who is given another opportunity to plead his case.*

*List the case on 23.07.2019.”*

10. We fail to understand as to why, when the matter was adjourned to 23.07.2019, was the matter listed on a prior date by the Registry of the Tribunal. The Registry must furnish an explanation to the Chairman of the Tribunal for this lapse. We are also rather alarmed that when this lapse was brought to the notice of the Tribunal by way of the review application, the Tribunal did not deem it appropriate to review the order and give a hearing to the petitioner which he is entitled to in law.

11. Resultantly, we are left with no option but to set-aside impugned order dated 22.05.2019 whereby the O.A. was dismissed;

and direct the Tribunal to hear the parties and decide the O.A. on merits.

12. The matter be listed before the Tribunal on 12<sup>th</sup> December 2019 and the parties are directed to appear before the Tribunal on the said date.

13. A copy of this order be sent to the Registry of the Tribunal, who will ensure that there is an explanation placed before the Chairman of the Tribunal in regard to the lapse referred to above.

14. The petition is disposed of in terms of the aforesaid observations.

**G.S.SISTANI, J.**

**ANUP JAIRAM BHAMBHANI, J.**

**NOVEMBER 25, 2019**

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