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

Date of Decision: 18.11.2019

+ W.P.(C) 11171/2019 & CM APPL. No. 45991/2019 (stay)

rites limited

..... Petitioner

Through: Mr. Vardhman Kaushik, Adv.

versus

ANUPAM KUDESIA

..... Respondent

Through: Mr. Bhagwan Singh, Adv.

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)

The present petition is directed against order dated 29.04.2019 passed by the Central Administrative Tribunal ('Tribunal') by which delay in filing the O.A. has been condoned subject to payment of cost of Rs. 5,000/- to be deposited with the Delhi Legal Services Authority.

2. Learned counsel for the petitioner submits that there is an inordinate and unexplained delay of approximately five years; and moreover the O.A. is devoid of material particulars. The petitioner has strongly opposed condonation of the inordinate delay urging that

without recording any reasons, delay has been condoned in a mechanical manner.

3. Learned counsel for the respondent, on the other hand, submits that since cost of Rs. 5,000/- has been imposed, that is adequate recompense and there is no infirmity in the order of the Tribunal.

4. We have heard learned counsel for the parties.

5. In the case of ***P.K. Ramachandran vs. State of Kerala & Ors.*** AIR 1998 SC 2276, the Supreme Court has observed that at the outset while considering an application for condonation of delay, the court must record its satisfaction as to whether the explanation for delay is reasonable and satisfactory.

6. Section 21 of the Administrative Tribunals Act, 1985 reads as under:

*“21. **Limitation.**—(1) A Tribunal shall not admit an application,—*

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

7. However, the order of the Tribunal simply reads as under :

“MA No. 653/2019 is filed seeking condonation of delay in filing the OA.

Heard both the sides.

The counter filed by the respondents in the MA vide diary no. 3377 is taken on record.

In the circumstances and in the interest of justice, delay in filing the OA is condoned, however, subject to payment of cost of Rs.5,000/- to the Delhi Legal Services Authority within three weeks. On payment of the same, list the OA under appropriate caption on 19.07.2019 for filing the counter by the respondents.”

8. On examining the order passed, we find that none of the averments of either of the parties have been noted nor any finding has been rendered as regards sufficiency of the explanation of the cause of the long delay in approaching the Tribunal.
9. Absent the recording of satisfaction, as mandated by the Supreme Court, the order of the Tribunal is set-aside.
10. We are informed that the next date of hearing fixed in the matter is 03.01.2020. The Tribunal will, in the first instance, decide the application seeking condonation of delay by passing a reasoned order, before proceeding any further in the matter.
11. The writ petition and the application stand disposed of in the above terms.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 18, 2019/uj