

18.11.2020
S/L-6
(rrc/AD)

(Via Video Conference)

WPCT 48 of 2020
With
IA No: CAN 1 of 2020

Union of India & Ors.
Vs.
Aloka Sahis

Mr. Alok Kumar Banerjee
Mr. Anirban Mitra

... for the petitioners.

Service complete. The matter is taken up for hearing.

This is an application under Articles 226/ 227 of the Constitution of India. It is instituted by the Union of India challenging the rejection of an application for review of an order submitted before the tribunal against one of its original orders. The tribunal through an order issued (disposed of by circulation) on 03.07.2020 made reference to the Full Bench decision of the Andhra Pradesh High Court in G. Narasimha Rao vs. Regional Joint Director of School Education, Warrangal & Ors., reported in 2005(4) SLR 720 and noticed that “a review petition filed beyond the period of limitation provided under Rule 17 of the A.T. Act cannot be entertained.”

Heard learned Counsel for the petitioners. We see that much before the impugned order of the tribunal, a Three-Judge Bench of this Court had decided on October 8, 2002 in the case of Union of India & Ors. Vs. Central Administration Tribunal & Anr. in W.P.C.T. No.271 of

2001 that an application under Section 5 of the Limitation Act could be entertained even in relation to an application seeking review of an order of the tribunal, having regard to due facts and circumstances. We are told that such an application was, in fact, filed before the tribunal along with the application seeking review.

Under such circumstances, we are of the view that in view of the decision of the Three-Judge Bench of this Court which is the jurisdictional High Court, the question whether an application under Section 5 was eligible to be entertained and if so, what would be the final result of such application is a matter which the tribunal ought to have considered.

Accordingly, we are of the view that the impugned order of the tribunal rejecting the application for review merely on the ground that it is out of time resulted in erroneous exercise of jurisdiction and failure to exercise lawful jurisdiction in terms of the statutory provisions. Having regard to the provisions under Section 5 of the Limitation Act as delineated in W.P.C.T. No. 271 of 2001 by the Three-Judge Bench of this Court, we are, therefore, of the view that the impugned order issued by the tribunal is to be set aside for reconsideration of the application for review and any application for condonation of delay by the tribunal.

In the result, the impugned order of the tribunal dated 03.07.2020 (Union of India & Ors. Vs. Aloka

Sahis) is set aside. The tribunal is requested to take back the application covered by that order and consider the same in accordance with law also noticing the principles of law enunciated in the Full Bench judgment of this Court noted above.

Let this exercise be carried out within a period of four months from the date of receipt of a copy of this order by the tribunal.

The petitioners are directed to place a copy of this order before the tribunal for further proceeding.

WPCT 48 of 2020 along with CAN 1 of 2020 are disposed of.

(Thottathil B. Radhakrishnan, CJ.)

(Arijit Banerjee, J.)