

13.04.2021
Item No. 61
S.G/S. Biswas

WPCT 22 of 2021

Bhanu Charan Singh
(Since deceased), represented by
Legal Heirs Tapan Singh & others
Vs.
Union of India & others

Mr. Mukunda Lal Sarkar, Advocate
... for the Petitioners
M/s. Daya Shankar Mishra,
Mukesh Kumar Gupta, Advocates
... for the Respondent No.1

Order dated February 5, 2019 passed by the Central Administrative Tribunal (for short, 'the Tribunal') vide the application filed by the petitioners for substitution as heirs by the applicant before the Tribunal was dismissed.

Learned counsel for the petitioners submitted that the Original Application was filed before the Tribunal for setting aside the order dated October 22, 2009 and also for direction to the official respondents for entry of the name of his wife as nominee in the service book. During the pendency of the aforesaid application before the Tribunal, Bhanu Charan Singh expired on May 04, 2017. On account of the communication gap between the legal heirs and the counsel, he could not be informed about the expiry of Bhanu Charan Singh. As a result of which, the application for impleadment of his legal heirs could not be filed within 90 days from his death in terms of Rule 18 of the Central

Administrative Tribunal (Procedure) Rules 1987 (Rule 18 of the said Rule). The application was filed immediately after the legal heirs were apprised about the requirement to file such application, on October 05, 2018. A prayer was made before the Tribunal to condone the delay in filing the application and also allow the applicants to be impleaded as legal heirs of deceased Bhanu Charan Singh.

A perusal of the impugned order passed by the Tribunal shows that the application was dismissed without recording any reason. Rule 18 of the said Rules provides that on account of the death of the Original Applicant, in case no application for substitution is filed before the Tribunal within the time permitted, the proceedings shall abate. Further, for good and sufficient reasons such an order could be recalled.

The grounds mentioned by the petitioners in the application filed before the Tribunal seeking condonation of delay in filing the application for impleading the heirs are sufficient. The legal representatives of the deceased Original Applicant before the Tribunal were not to gain anything by not filing the application in time. The power has also been conferred on the Tribunal to recall the order dismissing any OA on that ground. In the case in hand the Tribunal had not dismissed the application on account of non-impleadment of LR's in time. Rather it was

dismissed only when the delayed application was filed by the petitioners for impleadment as LR's of deceased Original Applicant. Prayer was also made for condonation of delay.

For the reasons stated above, the writ petition is allowed by setting aside the order dated February 05, 2019 passed by the Tribunal. The names of the applicants, as mentioned in the application filed by the petitioners before the Tribunal seeking impleadment as legal heirs of the deceased Bhanu Charan Singh be added.

Amended Memo of parties be filed before the Tribunal within four weeks. The Tribunal to proceed with the matter thereafter in accordance with law.

With the aforesaid observations, the writ petition is disposed of.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)