

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET(RP) No.68 of 2019

State of Odisha & Ors.

....

Petitioners

-versus-

Sarat Chandra Tripathy

....

Opposite Party

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.09.2022

Order No

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. R.N. Mishra, learned AGA appearing for the Review Petitioner.
3. This Review Petition has been filed by the Executive Engineer, Upper Kolab Head Works Division, Kolab Nagar seeking review of the order dtd.19.05.2017 passed in O.A. No.934 of 2015. It is submitted that vide order dtd.19.05.2017 when the claim of the Private Opp. Party was allowed with a direction to regularize his service w.e.f. the date similarly situated teachers were so regularized, challenging the said order State of Odisha approached this Court in W.P.(C) No.11186 of 2018.
4. It is submitted that this Court though was not inclined to interfere with the order passed by the learned Tribunal, but vide its order dtd.24.01.2019 disposed of the writ Petition by giving liberty to the Petitioner to approach the learned Tribunal by way of Review.
5. It is submitted that pursuant to the said order passed by this Court on 24.01.2019 the present Review Petition was filed before the

learned Tribunal on 04.09.2019. Accordingly, it is submitted that the Review Petition be entertained and notice be issued to the Private Opp. Party.

6. This Court after going through the materials available on record finds that even though vide order dtd.24.01.2019 State was allowed to file the Review Petition, but the same was filed only on 04.09.2019 and no application for condonation of delay has been filed.

7. Hon'ble Apex Court in the reported case in the case of ***K. Ajit Babu & Others Vs. Union of India*** reported in ***AIR 1997 SC-3277*** while examining the provision of Section 22(3)(f) of the Administrative Tribunal Act, 1985 vis-à-vis order 47 of the Code of Civil Procedure held that a Review application is to be filed within the period of limitation prescribed under Order 47 of the Code of Civil Procedure. Hon'ble Apex Court in the said decision in Para 4 has held as follows:-

"4. Section 22(3) of the Act empowers the Tribunal to review its decisions. Rule 17 of the Central Administrative Tribunal (Procedure and Rules) (hereinafter referred to as "the Rules") provides that no application for review shall be entertained unless it is filed within 30 days from the date of receipt of the copy of the order sought to be reviewed. Ordinarily, right of review is available only to those who are party to a case. However, even if we give wider meaning to the expression "a person feeling aggrieved" occurring in Section 22 of the Act whether such person aggrieved can seek review by opening the whole case decided by the Tribunal. The right of review is not a right of appeal where all questions decided are open to challenge. The right of review is possible only on limited grounds, mentioned in Order 47 of these Code of Civil Procedure.

Although strictly speaking the Order 47 of the Code of Civil Procedure may not be applicable to the tribunals but the principles contained therein surely have to be extended. Otherwise there being no limitation on the power of review it would be an appeal and there would be no certainty of finality of a decision. Besides that, the right of review is available if such an application is filed within the period of limitation. The decision given by the Tribunal, unless reviewed or appealed against, attains finality. If such a power to review is permitted, no decision is final, as the decision would be subject to review at any time at the instance of party feeling adversely affected by the said decision. A party in whose favour a decision has been given cannot monitor the case for all times to come. Public policy demands that there should be an end to law suits and if the view of the tribunal is accepted the proceedings in a case will never come to an end. We, therefore, find that a right of review is available to the aggrieved persons on restricted ground mentioned in Order 47 of the Code of Civil Procedure if filed within the period of limitation".

8. In view of such decision of the Hon'ble Apex Court as cited (supra), the present Review Petition having not been filed within the prescribed period of limitation and no application for condonation of delay having been filed along with the application for Review, the Review Petition is not entertainable and accordingly the same is dismissed.

(Biraja Prasanna Satapathy)
Judge

Sneha