

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET (RPC) No.44 of 2019

State of Odisha and Others

Petitioners

-versus-

Abani Ranjan Pattnaik

Opposite Party

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

12.10.2022

Order
No.

01. 1. This matter is taken up through hybrid mode.
2. Heard Mr. B. Prusty, learned Standing Counsel appearing for the School & Mass Education Department-Petitioners and Mr. S. Behera, learned counsel appearing for the Opposite Party.
3. This review application has been filed seeking review of the order dated 25.10.2018 passed by the learned Member (Judicial), Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.2990(C) of 2013.
4. Mr. B. Prusty, learned Standing Counsel appearing for the School & Mass Education Department-Petitioners submits that learned Tribunal without following the order passed by this Court in its judgment dated 13.04.2017 in

W.P.(C) No.1043 of 2017, has passed the impugned order. Accordingly, it is submitted that the said order is to be reviewed by this Court.

5. Mr. S. Behera, learned counsel appearing for the Opposite Party made his submission basing on stand taken in the objection. It is submitted that the review application though has been filed beyond the period of limitation, no application of condonation of delay has been filed. It is also submitted that as per the provision contained under Section 22(3)(f) of the Administrative Tribunals Act, 1985 read with the provision contained under the Code of Civil Procedure, the review application must be filed within a period of thirty days from the date of order. Mr. Behera also relied on a decision of the Hon'ble Apex Court in the case of **K. Ajit Babu & Others Vs. Union of India** reported in **AIR 1997 SC-3277** wherein the Hon'ble Apex Court 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 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 been 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".

6. 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