

(2020) 11 CAT CK 0092

In the Central Administrative Tribunal

Case No : Contempt Petition No. 195 Of 2020 In Original Application No. 2874 Of 2018, Miscellaneous Application No. 201, 298, 1905 Of 2020, Review Application No. 91 Of 2020

Kuwajit Kaur

APPELLANT

Vs

Dr. Ajay Kumar & Others

RESPONDENT

Date of Decision : 23-11-2020

Acts Referred:

Central Administrative Tribunal (Procedure) Rule, 1987 — Rule 17

Citation : (2020) 11 CAT CK 0092

Hon'ble Judges : L. Narasimha Reddy, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Manish Shekhari, Shailender Tiwari

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

MA No.201/2020 in RA No.91/2020.

1. This application is filed with a prayer to condone the delay of 166 days in filing the RA. It is stated that the delay occurred on account of

administrative reasons and in processing the file, and then there is no willful delay on their part. However, the respondent (applicant in the OA) has

raised a serious objection as regards to the maintainability of the MA. According to him Rule -17 of CAT (Procedure) Rules not only stipulates

limitation for filing the RA but does not confer power to condone delay. He placed reliance upon the judgment of Honâ??ble Supreme Court in K.

Ajit Babu vs. Union of India (1997) 6 SCC 473 and the judgment of Honâ??ble Andhra Pradesh High Court in G. Narsimha Rao Vs. Regional

Joint Director of School 2003 SCC Online AP 1068.

2. We heard Mr. Shailendra Tiwari, learned counsel for the applicant herein and Mr. Manish Shekhar, learned counsel for the respondents.

3. The applicant no doubt, has pleaded certain reasons, which may otherwise enable the Tribunal to condone the delay. The fact, however, remains

the Honâ??ble Supreme Court and Honâ??ble High Court of Andhra Pradesh held that the Tribunal does not have the power to condone the delay

in filing the case for review. Following the same, we dismiss the MA . As a result, the RA also stands dismissed.

CP No.195/2020

4. This contempt case is filed alleging that the respondents did not implement the order dated 31.05.2019 in OA No.2874/2018. The applicant is

working as JTO in the Director General of Quality Assurance, Ministry of Defence Production, New Delhi. Through an order dated 19.07.2017, she

was transferred from Delhi to Kanpur. Similar orders of transfers were also passed in respect of other employees. Those orders were challenged in

OA No.2791/2017 in Smt. Alka Chauhan and others vs. Union of India and others. On her part, the applicant filed OA No.4531/2017 challenging the

order of transfer. While OA No.4531/2017 was disposed of on 20.12.2017 directing that the representation made by the applicant be considered and a

reasoned order be passed within a period of two months, and OA No.2791/2017 was decided on merits on 17.12.2018. The order in that OA

specifically mentioned that an interim order was passed on 19.08.2017 and the relief was granted in favour of two out of three applicants.

5. The representation made by the applicant was disposed of on 21.05.2018. That was challenged in OA No.2874/2018. Through an order dated

31.05.2019 n MA No.1912/2019 the hearing of the OA was advanced on a representation made by the applicant that her case stands on the same

footing as those of the applicants in OA No.2791/2017. On the same day, the OA No.2874/2018 was disposed of, in terms of order passed in OA

No.2791/2017.

6. The applicant contends that though her OA was disposed of in terms of the order in OA No.2791/2017, the respondents are not permitting her to

join duties at Delhi. The respondents have, in turn, filed a review application together with an application for condonation of delay. Today itself, we

dismissed the application for condonation of delay and the RA on an objection

raised by the applicant herein that the Tribunal does not have the power to condone the delay

7. We heard Shri Manish Shekhari, learned counsel for the applicant and Shri Shailendra Tiwary, learned counsel for the respondents in this CP.

8. The applicant was transferred from a station at New Delhi, to Kanpur, way back on 19.07.2017. She challenged the order of transfer by pleading

that her left out service is three years and she is entitled to remain at Delhi in the last leg of her service. OA No.2874/2017 filed by her was disposed

of on 31.05.2019 just by observing that the representation made by her be disposed of. In contrast, in OA No.2791/2017, an interim order was passed

on 19.08.2017. That fact was taken into account when the said OA was disposed of on 17.12.2018 and the relief was granted to some of the

applicants therein.

9. The challenge in OA No.2874/2018 was to an order of rejection of representation. Not a word was said about the stay, or the facts stated therein.

We are not either reviewing the order of the Tribunal in the OA. We are only mentioning the fact that there did not exist any interim order, in favour

of the applicant, at any stage. From 19.07.2017 till 17.12.2018, i.e., for about one and a half years, it is clear that the applicant did not have the benefit

of interim order. She has remained out of service and till today she did not join the duty. One can really imagine the impact of such an attitude in an

important organization like the DGQA. Since there is no clear finding about the legality or otherwise of the order of transfer, or the rejection of the

representation submitted by the applicant, coupled with the fact that there did not exist any interim order in her favour which entitle her to remain at

Delhi, we are of the view that the respondents cannot be said to have committed contempt of court. The contempt case is accordingly closed.

All ancillary applications stand disposed of.