
(2002) 10 CAL CK 0022
In the Calcutta High Court
Case No : W.P.C.T. No. 271 of 2001

Union of India and Others

APPELLANT

Vs

Central Administrative Tribunal and Another

RESPONDENT

Date of Decision : 08-10-2002

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19, 20, 21, 21(3), 22
Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, 114
Criminal Procedure Code, 1973 (CrPC) — Section 417, 417(3)
Evidence Act, 1872 — Section 123, 124
Limitation Act, 1963 — Section 10, 10, 11, 11, 12, 12
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 22

Citation : 107 CWN 337

Hon'ble Judges : Tarun Chatterjee, J;Altamas Kabir, J;Alok Kumar Basu, J

Bench : Full Bench

Advocate : Subrata Dutta, for the Appellant;B. Mukherjee, for the Respondent

Judgement

Tarun Chatterjee, J.—In W.P.C.T. No. 573 of 2000 an order was passed by a Division Bench of this court on 4th September, 2000 in which it was held that the Central Administrative Tribunal (in short Tribunal") had no jurisdiction to condone delay in filing a review application in view of Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 (hereinafter referred to as the Rules"). Subsequently this question had cropped up before another Division Bench of this Court (quorum Altamas Kabir and Alok Kumar Basu, JJ.) in WPCT No, 271 of 2001. By an order dated 25th September, 2001 the Division Bench in WPCT No. 271 of 2001 had expressed its dissent from the views expressed in the order dated 4th September, 2000 in WPCT No. 573 of 2000 and had formulated the question as noted herein below and thereafter referred the matter to the Hon"ble Chief Justice for decision of the said question by constituting a Larger Bench. The question formulated by the Division Bench in WPCT No. 271 of 2001 (quorum Altamas Kabir and Alok Kumar Basu, JJ.) is as follows:

"Whether having regard to the provision of Rule 17 of the Central Administrative

Tribunal (Procedure) Rules, 1987 and Sections 21 and 22 of the Administrative Tribunal Act, 1985, the Tribunal has jurisdiction to condone the delay in filing a review application?"

To decide the aforesaid question as formulated, the Hon'ble Chief Justice of this Court constituted this Larger Bench. Accordingly, we heard the learned Counsel for the parties and this judgment is now being delivered by us. A few relevant facts leading to this reference case may be required to be stated for proper decision of the question referred to us. The writ application is directed against an order dated 1st December, 1999 passed by the Tribunal directing the Union of India to pay the arrear salaries to one Smt. Shefalika Sanyal who is now respondent No. 2 in the present writ application. Smt. Shefalika Sanyal filed an application before the Tribunal for reliefs as noted in the writ petition. The Union of India, however, filed an application for review of the order dated 1st December, 1999 before the Tribunal. From the record it appears that the review application was filed along with an application for condonation of delay. The Tribunal however dismissed the review application on the ground that in view of Rule 17 of the Rules, the question of entertaining an application for condonation of delay in filing the review application could not arise at all. Therefore, the question that needs to be decided, as noted herein earlier, is whether an application for condonation of delay in filing an application for review can be entertained by the Tribunal in spite of Rule 17 of the Rules and in other words, Rule 17 takes away the jurisdiction of the Tribunal to entertain an application for condonation of delay in filing a review application.

2. Before we deal with this question, as aforesaid, it is necessary to note the relevant provisions in the light of which the present controversy can be resolved. Chapter III of the Administrative Tribunals Act, 1985 (in short 'The Act') deals with jurisdiction, powers and authority of Tribunals. Chapter IV deals with the procedure for the Tribunals. Section 19 of the Act says that subject to the other provisions of the Act, a person aggrieved by any order pertaining to any other matter within the jurisdiction of a Tribunal, may make an application to the Tribunal for the redressal of his grievance. Section 20 of the Act deals with applications not to be admitted unless other remedies are exhausted. That is to say this Section provides for admission of applications made by aggrieved person only if other remedies available have been exhausted. Section 21 of the Act deals with limitation in filing such original applications. Since in this case we are to consider the question whether an application for condonation of delay can be filed in a review application under the Act, it is expedient for us to quote Section 21 of the Act which runs as under:

"Limitation. (1) A Tribunal shall not admit an application.-

(a) in a case where a final order such as is mentioned in clause

(a) of sub-Section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which

such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-Section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-Section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b) of sub-Section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-Section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-Section (1) or, as the case may be, the period of six months specified in sub-Section (2), if the applicant satisfies the Tribunal that he has sufficient cause for not making the application within such period.'''

(Emphasis is mine)

3. From a plain reading of the provisions under sub-Section (3) of Section 21 of the Act it is clear to us that Section 21(3) of the Act confers power on the Tribunal to condone delay in filing an original application before the Tribunal if the applicant satisfies the Tribunal that he has sufficient cause for not making the application within the period of limitation as prescribed in the Act. Section 22 of the Act is also important to decide the question in hand. Accordingly, we quote the same:

22. Procedure and Powers of Tribunals.-(1) A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representation and after hearing such oral arguments as may be advanced.

3) A Tribunal shall have, for the purposes of discharging its functions under this

Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:

- a) a summoning and enforcing the attendance of any person and examining him on oath;
- b) requiring the discovery and production of documents;
- c) receiving evidence on affidavits;
- d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- e) issuing commissions for the examination of witnesses or, documents:
- f) reviving its decisions:
- g) dismissing a representation for default or deciding it ex parte;
- h) setting aside any order of dismissal or any representation for default or any order passed by it ex parte; and
- i) any other matter which may be prescribed by the Central Government.

4. As noted herein earlier. Section 22 of the Act clearly says that the Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure. Therefore, by the aforesaid expression it does not mean that the Tribunal shall not have jurisdiction to exercise powers of a Court as contained in the Code of Civil Procedure. Similar provision has also been inserted in Section 22 of the Recovery of Debts Due to Banks and Financial Institutions Act 1993. From a plain reading of sub-Section (3) of Section 22 of the Act it is evident that for the purpose of discharging the function by the Tribunal under the Act, the Tribunal is also vested with powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. Accordingly, in our view, the Tribunal can not only take the help of the provisions of the CPC in dealing with an application for review filed u/s 22(3) of the Act but while doing so the Tribunal must observe the principles of natural justice, in the case of *The Industrial Credit and Investment Corporation of India Ltd. Vs. Grapco Industries Ltd. and Others*, . the Supreme Court while dealing with Section 22 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 which is para materia with the Section 22 of the Act held that Recovery of Debts Due to Banks and Financial Institutions Act, 1993 also confers power on the Tribunal to travel beyond the CPC and the only fetter that is put on its power is to observe the principles of natural justice. In the case of *Gopabandhu Biswal Vs. Krishna Chandra Mohanty and Others*, the Supreme Court has clearly held that the power of review, which is granted to an Administrative Tribunal is similar to the power given to a Civil Court under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure.

5. From a plain reading of Section 22 sub-Section (1) read with sub-Section (3) of Section 22 of the Act and in view of the aforesaid decision of the Supreme Court it is, therefore, pellucid that the Tribunal while entertaining an application for review, is conferred with the same power as are vested in a Civil Court under the Code of Civil Procedure, 1908 that is to say for the purpose of entertaining an application for review. the Tribunal in our view acts as a Civil Court and is conferred to exercise all powers as are vested in a Civil Court. Since in this case we are concerned with the powers of the Tribunal to condone delay in filing a review application u/s 5 of the Limitation Act. it would be appropriate for us to quote Section 5 of the Limitation Act which runs as under :

"5. Extension of prescribed period in certain cases. Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908. may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period."

6. From a plain reading of Section 5 of the Limitation Act, 1963, it is pellucid that the prescribed period of limitation can be extended if the Court is satisfied that he had sufficient cause for not preferring the appeal or making the application within the period of limitation. Accordingly, in our view, if we are permitted to hold that the Tribunal for the purpose of deciding an application for review is a "Court" within the meaning of Section 5 of the limitation Act, there cannot be any dispute in our mind to hold that the Tribunal under the Act was entitled to condone delay in filing a review application u/s 22 Sub-section (3)(f) of the Act. Even assuming that the Tribunal cannot be considered to be a "Court" within the meaning of Section 5 of the Limitation Act, then we are firmly of the opinion that the Tribunal is conferred with power to condone delay in filing a review application. Mr. Mookherjee appearing on behalf of the respondent had drawn our attention to Rule 17 of the Rules and submitted that in view of Rule 17 of the said Rules the Tribunal is not conferred with power to condone delay in filing the review application after the expiry of 30 days from the date of receipt of a copy of the order sought to be reviewed. In order to appreciate the submission of Mr. Mookherjee, it is necessary to quote Rule 17 of the Rules which runs as under :

"Rule 17. Application for review. - (1) No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.

(2)....

(3)....

(4)....

(5)...."

We have carefully examined the provisions as made in Rule 17 of the Rules, as quoted hereinabove. From a plain reading of the provisions under Rule 17 of the

Rules it appears to us that Rule 17 only prescribes that no application for review shall be entertained unless it is filed within 30 days from the date of the receipt of a copy of the order sought to be reviewed. Rule 17 of the Rules, in our view, does not take away the right of the Tribunal to condone delay in filing an application for review.

7. That apart, in our view, by the exercise of the word "no application for review shall be entertained", the legislature intended to say that no review application could be entertained until and unless the same is filed within 30 days from the date of the receipt of a copy of the order sought to be reviewed. It does not say and cannot say that no application for condonation of delay in filing the same, could be filed when an application for review was not filed within the time framed in Rule 17 of the said Rules. This Rule 17 of the said Rules, in our view, deals with the power of the Tribunal to entertain an application for review. That is to say the Tribunal has not been conferred with jurisdiction to entertain an application for review when the said application was not filed within 30 days from the date of the receipt of a copy of the order sought to be reviewed. Therefore, we are of the view that Rule 17 of the said Rules cannot stand in the way of making an application for condonation of delay in filing a review application. In this connection we are fortified by the observation of the Supreme Court in the case of *Gopabandhu Biswal* (supra). The Supreme Court while dealing with Rule 17 in the said decision observed as follows :

"They also do not comply with the relevant Rules. Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 prescribed, inter alia, that no application for review shall be entertained unless it is filed within 30 days from the date of the receipt of a copy of the order sought to be reviewed. In the present case the review petitions were filed one and a half years after the main judgment was delivered and one year after the SLP was dismissed. We do not find any explanation for this delay"

(Emphasis is mine)

8. From the sentence "we do not find any explanation for this delay" of the Supreme Court it can be said that until and unless the Tribunal is conferred with power to condone delay in filing a review application, there was no reason for the Supreme Court to make the aforesaid observation in the judgment. Accordingly, we are of the view that in entertaining the review application, an application for condonation of delay u/s 5 of the Limitation Act could be entertained and disposed of by the Tribunal.

9. In view of the discussions made hereinabove, we are, therefore, of the view that the Tribunal has jurisdiction to condone delay in filing a review application and Rule 17 of the Rules does not take away such right of the Tribunal to condone the delay in filing a review application.

10. There is yet another aspect of this matter. To decide the question in hand we may deal with this problem from another angle. We have quoted Section 5 of the

Limitation Act herein earlier. Another Section of the Limitation Act, 1963 is also necessary to be quoted for deciding the question in hand. It is Section 29(2) of the Limitation Act, which runs as under :

"(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

11. A perusal of Section 29 sub-Section (2) of the Limitation Act would -show that where a period of limitation provided by the Limitation Act for a suit, appeal or application has been varied or curtailed by any special or local law, the period of limitation provided by the special or local law shall prevail and it is only where a special or local law enacts a period of limitation which varies from or is in substitution of any period prescribed in Schedule 1 of the Limitation Act then the question of the applicability of Sections 4 to 24 of the Limitation Act dealing with the computation and extension of limitation in particular cases owing to disability, etc., can arise. It is in such cases. Section 29(2) of the Limitation Act applies. But at the same time on a careful reading of the provisions u/s 29(2) of the Limitation Act, we are of the view that Section 29(2) of the Limitation Act makes it clear that for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 shall apply only in so far as and to that extent to which they are not expressly excluded by such special or local law. Therefore, from a plain reading of Section 29(2) of the Act it can be deciphered that Section 5 of the Limitation Act shall apply to a special or local law if the operation of Section 5 of the Limitation Act has not been expressly excluded in Section 22(3)(f) of the Act.

12. In the case of Mukri Gopalan Vs. Cheppilat Puthanpurayil Aboobacker, the Supreme Court while dealing with applicability of the provision u/s 5 of the Limitation Act in view of Section 29(2) of the same observed as follows.:

"A mere look at the aforesaid provision shows for its applicability to the facts of a given case and for importing the machinery of the provisions containing Sections 4 to 24 of the Limitation Act the following two requirements have to be satisfied by the authority ? invoking the said provision.

(i) There must be a provision for period of limitation under any special or local law in connection with any suit, appeal or application.

(ii) The said prescription of period of limitation under such special or local law should be different from the period prescribed by the Schedule to the Limitations Act."

13. If the aforesaid two requirements are satisfied the consequences contemplated by Section 29(2) would automatically follow. These consequences are as under:

(i) In such a case Section 3 of the Limitation Act would apply as if the period prescribed by the special or local law was the period prescribed by the Schedule.

(ii) For determining any period of limitation prescribed by such special or local law for a suit, appeal or application all the provisions containing Section 4 to 24 (inclusive) would apply insofar as and to the extent to which they are not expressly excluded by such special or local law.

14. Keeping the aforesaid two requirements in our mind as enunciated by the Supreme Court, let us now consider whether in view of Section 29(2) of the Limitation Act, whether Rule 17 of the Rules satisfies the aforesaid two condition's for attracting the applicability of Section 29(2) of the Limitation Act. It would be disputed that the Act is a special Law. It is also not in dispute that the Act or the Rules prescribes for filing a review application under Rule 17 of the said Rules which is different from the period prescribed by the Schedule as the schedule to the Limitation Act does not contemplate any period of Limitation for filing a review application before the Tribunal under Rule 17 of the said Rules. In view of the decision of the Supreme Court in the case of Mukri Gopalan (supra) it is also now well settled that a situation wherein a period of limitation is prescribed by a special or local law for an application for review and for which there is no provision made in the Schedule to the Act, the second condition for attracting Section 29(2) would get satisfied. In our view, relying on the aforesaid decision of Mukri Gopalan (supra) it is therefore evidently clear that Section 29(2) would apply even to a case where a difference between the special law and the Limitation Act arose by the omission to provide for limitation to a particular proceeding under the Limitation Act. The Supreme Court in the aforesaid decision in the case of Mukri Gopalan (supra), after considering the provisions u/s 29(2) of the Limitation Act and the applicability of Section 5 of the Limitation Act, has clearly laid down the principle that when there is no express exclusion anywhere in the special or local law taking out the applicability of Section 5 of the Limitation Act to such Act or Rules, all the requirements to apply Section 5 of the Limitation Act to a particular special law or local law either in appeals or in applications in the light of Section 29(2) of the Limitation Act can be said to have been satisfied. From the aforesaid decision of the Supreme Court it is clear to us that the Supreme Court has clearly laid down that the express language of Section 29(2) indicates that such special or local law must provide for period of limitation for suit, appeal or application entertainable under such laws and for computing period of limitation under such special or local law the legislature has made available the machinery of Sections 4 to 24 inclusive as found in Limitation Act. Accordingly, in view of the aforesaid decision of the Supreme Court, It must be held that in view of the Section 29(2) of the limitation Act the Tribunal has the jurisdiction entertain an application for condonation of delay filed u/s 5 of the

Limitation Act and dispose of the same in accordance with law. As noted herein earlier, from a plain reading of the provisions under Rule 17 of the Rules it may be admitted that the language of Rule 17 is mandatory and compulsive, in that it provides in no uncertain terms that the application for reviving a decision from an order of the Tribunal shall not be entertained by it after the expiry of thirty days from the date of receipt of the order sought to be reviewed. But in our view, applicability of an application u/s 5 of the Limitation Act cannot depend on the words used in Rule 17 of the said Rules. As discussed hereinabove, in our view, Rule 17 of the said Rules. As discussed hereinabove, in our view, Rule 17 of the Rules only bars a review application to be admitted after the expiry of thirty days from the date of receipt of the order sought to be reviewed. Therefore, Rule 17, in our view, does not take away the jurisdiction of the Tribunal to entertain and dispose of an application u/s 5 of the Limitation Act when applicability of Section 5 of the Limitation Act has not been expressly excluded by the Act.

15. There is yet another aspect of the matter. While dealing with the applicability of Section 5 of the Limitation Act 1908, in a proceeding under Sections 417(3), (4) of the Code of Criminal Procedure, the Supreme Court in the case of Kaushalya Rani Vs. Gopal Singh, has held that Section 5 of the limitation Act, 1908 is not applicable to an application for Special Leave from an order of acquittal under sub-Section (3) of Section 417 of the Code of Criminal Procedure. This decision of the Supreme Court was taken into consideration by the Supreme Court in its later decision in the case of Mangu Ram Vs. Municipal Corporation of Delhi, In this decision of the Supreme Court, the Supreme Court distinguished the aforesaid decision relying on the provision of the Limitation Act, 1963. In paragraph 7 of the said decision, the Supreme Court observed as follows:

"7. There is an important departure made by the Limitation Act, 1963 in so far as the provision contained in Section 29, sub-Section (2) is concerned. Whereas under the Indian Limitation Act, 1908 Section 29, sub-Section (2), clause (b) provided that for the purpose of determining any period of limitation prescribed for any special or local law the provisions of the Indian Limitation Act, 1908 other than those contained in Sections 4, 8 to 18 and 22, shall not apply and, therefore, the applicability of Section 5 was in dear and specific terms excluded. Section 29, sub-Section (2) of the Limitation Act, 1963 enacts in so many terms for the purpose of determining the period of limitation prescribed for any suit, appeal or application by any special or local law the provisions contained in Sections 4 to 24, which would include Section 5, shall apply in so far as and to the extent to which they are not expressly excluded by such special or local law, Section 29 sub-Section (2). Clause (b) of the Indian Limitation Act, 1908 specifically excluded the applicability of Section 5, while Section 29 sub-Section (2) of the Limitation Act 1963 in clear and unambiguous terms provides for the applicability of Section 5 and the ratio of the decision in Kaushalya Rani's case can, therefore, have no application in cases governed by the Limitation Act 1963 since that decision proceeded on the hypothesis that the applicability of Section 5 was excluded by reason of Section 29(2)(b) of the Indian Limitation Act 1908.

Since under the Limitation Act 1963, Section 5 is specifically made applicable by Section 29, sub-Section (2), it can be availed of for the purpose or extending the period of limitation prescribed by a special or local law if the applicant can show that he had sufficient cause for not presenting the application within the period of limitation. It is only if the special or local law expressly excludes the applicability of Section 5, that it would stand displaced. Here, as pointed out by this court in *Kaushalya Rani Vs. Gopal Singh*, the time limit of sixty days laid down in sub-Section (4) of Section 417 is a special law of limitation and we do not find anything in this special law which expressly excludes the applicability of Section 5. It is true that the language of sub-Section (4) of Section 417 is mandatory and compulsive, in that, it provides in no uncertain terms that no application for grant of special leave to appeal from an order of acquittal shall be entertained by the High court after the expiry of sixty days from the date of that order or acquittal. But that would be the language of every provision prescribing a period of limitation. It is because a bar against entertainment of an application beyond the period of limitation is created by a special or local law that it becomes necessary to invoke the aid of Section 5 in order that the application may be entertained despite such bar. Mere provision of a period of limitation in however preemptory or imperative language is not sufficient to displace the applicability of Section 5. The conclusion is, therefore, irresistible that in a case where an application for special leave to appeal from an order of acquittal is filed after the coming into force of the Limitation Act 1963, Section 5 would be available to the applicant and if he can show that he had sufficient cause for not preferring the application within the time limit of sixty days prescribed in sub-Section (4) of Section 417, the application would not be barred and despite the expiration of the time limit of sixty days, the High Court would have the power to entertain it."

(Emphasis is mine)

16. From the aforesaid observations of the Supreme Court as noted herein earlier in which the earlier decision of the Supreme Court in the case of *Kaushalya Rani vs. Gopal Singh* (supra) was duly considered and the departure made in Section 29(2) of the 1963 Act from 1908 Act. But from the aforesaid two decisions of the Supreme Court it would be evident that the CPC was also found to be a Special Law in which Section 29(1) would be made applicable. The Supreme Court in the case of *Manguram vs. Ram Prashad Gondamal* (supra) has clearly considered the provisions u/s 29(2) of the Limitation Act, as well as, the provisions made in Section 29(2) of the 1963 Act. By considering the provisions u/s 29(2) the present Act of 1963. Supreme Court held that an application u/s 5 of the limitation Act must be held to be maintainable in view of a fact that in the Code of Criminal Procedure for the purpose of Section 417 (3), (4) of the Court was a special law. So far as the present case is concerned, we have no dispute that the Administrative Tribunal Act, 1985 is a special law. It is also not disputed that in this Act a special period of limitation has been provided. Therefore, applying the principles laid in the aforesaid decision of the Supreme Court in the

case of Manguram vs. Ram Prashad Gondamal (supra), we have no hesitation in our mind to hold that the Administrative Tribunal Act, 1985 more precisely Section 22 of the Act and Rule 17 of the Rules do not expressly exclude the applicability of Section 5 of the Limitation Act, 1963.

17. Before we conclude, we may however, observe that the order passed on 4th September. 2000 in WPCT No. 573 of 2000 by a Division Bench of this Court, however, did not consider all the aspects of the matter as discussed hereinabove and in the said order it was held that in view of Rule 17 of the Rules, no application for condonation of delay u/s 5 of the Limitation Act could be filed to an application for review.

18. For the reasons aforesaid, this reference case is disposed of by answering the question as posed hereinabove in the following manner:

The Tribunal is conferred with power under the Act and the Rules to condone delay u/s 5 of the Limitation Act in filing a review application despite Rule 17 of the said Rules."

19. Accordingly, the reference application is thus disposed of. There will be no order as to costs.

20. Instead of sending back the case to the Division Bench, having determination to dispose of the writ petition being WPCT No. 271 of 2001. we set aside the order of the Tribunal which held that, in view of the Rule 17 of the said Rules, the Tribunal was not conferred with the power to condone the delay u/s 5 of the Limitation Act, 1963 in filing a review application. We therefore, request the Tribunal to deal with the application for condonation u/s 5 of the Limitation Act and dispose of the same on merits in accordance with law within a period of two months from the date of communication of this order. In the event, the application for condonation of delay is allowed, we request the Tribunal to dispose of the Original Application filed before it within two months from the date of disposing of the application for condonation of delay without granting any unnecessary adjournment to either of the parties.

21. Accordingly, the reference case and the writ petition being WPCT No. 271 of 2001 are disposed of in the manner indicated above.

22. There will be no order as to costs. Let urgent xerox certified copies of this judgment, if applied for, be given to the learned counsel for the parties.

Altamas Kabir and Alok Kumar Basu, JJ.

23. We agree.