
(1999) 07 AP CK 0079

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12323 of 1999

V. Narsimha Babu

APPELLANT

Vs

Govt. of A.P. and others

RESPONDENT

Date of Decision : 05-07-1999

Acts Referred:

Limitation Act, 1963 — Section 10, 11, 12, 13, 14

Citation : (1999) 4 ALD 331 : (1999) 4 ALT 688 : (1999) 2 APLJ 318

Hon'ble Judges : E. Dharma Rao, J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Mr. J. Sudheer, for the Appellant; Government Pleader for Services-II, for the Respondent

Judgement

B. Subhashan Reddy, J

1. This writ petition raises an important question regarding the application of Section 5 of the Indian Limitation Act, 1963, for condoning the delay in filing review application before the Administrative Tribunals constituted under the Administrative Tribunals Act, 1985.

2. The petitioner had earlier filed RP Nos. 11143 to 11147 of 1989, but the same were dismissed on 26-10-1995. A review petition was filed, but there was a delay of 319 days. By order dated 21-7-1998 passed by A.P. Administrative Tribunal in M.A. No.380/97 and related SRs it was held that review application was time barred and that the Supreme Court in one of the decisions held that the Tribunal has no authority to relax the time prescribed under the Rules. No Supreme Court judgment was referred to, but it is very vaguely stated:

"The Supreme Court in one of the decisions held that the Tribunal had no authority to relax the time prescribed under the Rules."

3. In all fairness, the Tribunal ought to have specifically mentioned the Judgment of the Apex Court. It should be borne in mind that the law laid down by the Apex Court is law of the land under Article 141 of the Constitution and when that

law is referred to, the same has to be specific and cannot be vague in this manner. While relying upon the judgment, which is a stare decisis, apart from mentioning the same specifically, some facts are also to be mentioned so as to draw the analogy to justify the application of stare decisis and it is more so when a judicial body passes a judicial order.

4. In *L. Chandra Kumar Vs. Union of India and others*, , the Supreme Court emphatically stated that Administrative Tribunals are the Courts of first instance and as such, without exhausting the remedy before the Administrative Tribunals, a litigant cannot approach the High Court directly. The underlying object is very clear that the Tribunals, which are constituted as the Courts of first instance should effectively adjudicate the matters and if any Supreme Court judgment or High Court judgment is there ruling on the point and which is- a stare decisis, the same has got to be specifically referred to and cannot be vaguely referred. It is all the more necessary for the reason that this Court is vested with the powers of judicial review and in the course of judicial review, this Court is expected to dwell upon the correctness or otherwise of the reasoning given by the Tribunals. But, if there is no reference to any Supreme Court judgment, the very power of judicial review becomes redundant. Again, the matter has to be sent back to the Tribunal, which will consume years. For that reason, we have heard the learned Counsel for the petitioner as well as the learned Government Pleader for Services II.

5. The learned Government Pleader has cited the judgments in *K. Ajit Babu and others Vs. Union of India and others*, , and *Gopabandhu Biswal Vs. Krishna Chandra Mohanty and Others*, . But, the said judgments did not deal the specific issue as to whether Section 5 of Indian Limitation Act, 1963 is applicable to the review petitions arising under Administrative Tribunals Act, 1985. On the other hand, the learned Counsel for the petitioner has relied upon the judgment of the Supreme Court in *Director, Government of India Vs. General Secretary, Central Government Small-Scale Industries Organisation Employees' Union and Another*, , in which the delay was condoned and also on legal principles enunciated by the Supreme Court in *Mukri Gopalan Vs. Cheppilat Puthanpurayil Aboobacker*, , which came up for consideration of this Court in matters arising under Essential Commodities Act in the case of *Mahendra Kumar Goyal v. Ex.Officio, Joint Secretary and Additional Commissioner*, 1997(1) ALD 623. The principles laid down in *Mukri Gopalcm* 's case (supra) is that if the application of Sections 4 to 24 of Indian Limitation Act is not specifically excluded, then the same is applicable. Following the same, this Court in *Mahendra Kumar Goyal*'s case (supra) held that as the application of Sections 4 to 24 of the Indian Limitation Act is not excluded under the Essential Commodities Act, Section 5 of the Indian Limitation Act was applicable, and directed the authorities below to consider the condone delay application and if there are plausible reasons, to condone the same and hear the appeals on merits. The said analogy is applicable to the instant case also. In the Administrative Tribunals Act, there is no provision expressly excluding the application of the provisions contained under Sections 4

to 24 of the Indian Limitation Act, and as such, we hold that Section 5 of the Indian Limitation Act is applicable and the Administrative Tribunals are entitled to go into the plausibility or otherwise of the reasons stated in condone delay petitions for filing the review applications and if they find the reasons for delay are plausible, then to condone the delay and hear the review petitions on merits and, on the other hand, if they find that the reasons mentioned are implausible, to dismiss such applications.

6. Accordingly we direct the Tribunal to go into the reasons for condonation of delay in filing the review petition in this case and then render decision on merits.

7. The writ petition is allowed to the extent indicated above.