

COURT No. 2, ARMED FORCES TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
(Through Virtual Hearing)

20.

MA 1771/2020 & MA 1772/2020 in TA646/2009

UOI & Ors

.....Applicants

Versus

Ex Hav Nancha Ram Jat

.....Respondent

For Applicant : Mr. J.S.Yadav, Advocate

For Respondents : Mr. N.L.Bareja, Advocate

CORAM:

HON'BLE MS.JUSTICE SUNITA GUPTA, MEMBER (J)

HON'BLE VICE ADMIRAL P.MURUGESAN, MEMBER (A)

ORDER

30.09.2021

MA 1772/2020

Vide this application, the applicants (who are respondents in the main OA), seek grant of leave to appeal before Hon'ble Supreme Court against the order dated 14.10.2021 in terms of Section 30 and 31 of the AFT Act challenging the order dated 14.01.2019 in TA 646 of 2009. Along with this application, another MA 1772 has been filed under Section 5 of the Limitation Act seeking condonation of delay of 593 days in filing the application.

2. Heard counsel for the parties.

3. First of all, we shall take up MA 1772 of 2020 seeking condonation of delay in filing the application.

4. Section 31 of AFT Act provides for grant of leave to appeal to Hon'ble Supreme Court and sub-section 2 of this section provides that an application to the Tribunal for leave to appeal to Hon'ble Supreme Court shall be made within 30 days from the date of the order of the Tribunal. The order under challenge is dated

14.01.2019 and as per this sub-section, the application could have been filed by 15.02.2019. However, the application has been filed on 2nd September 2020 i.e. much after the expiry of the stipulated period. This section itself does not provide for condonation of delay in filing the application for grant of leave to appeal. Even assuming that delay can be condoned even then it is to be seen whether the applicant has been able to show "*sufficient cause*" for delay in filing the application.

5. The reason assigned for delay in filing the application is spelt out in Paras 5 and 6, which for the sake of convenience are reproduced as under:

"5. That after the Hon'ble Tribunal's judgment dated 14.01.2019, the applicants herein filed a Review Application No. 8/2019 (along with MA No. 879/2019) which was disposed of by the Hon'ble Court on 15.07.2020 (Annexure MA 2).

6. That after the Hon'ble Tribunal's order dated 15.07.2020 passed in the RA No. 8/2019, the matter was thereafter examined by the authorities at various levels and formations and ultimately it was decided to prefer an appeal before the Hon'ble Supreme Court and as such the instant application is being filed."

6. A perusal of averments made in the foregoing paras goes to show that stereotyped averments have been made in the application without specifically pointing out as to what prevented the applicant from filing the application within time.

7. In this regard, it will be relevant to note the conduct of the applicant which goes to show that the order in TA 646 of 2019 was passed on 14.01.2019. The respondent (who was applicant in the TA) filed review application on 18.02.2019. This application was dismissed vide detailed order dated 15.07.20020. There was delay in filing the review application. As such MA 879 of 2019 was filed seeking condonation of delay in filing the same. The reason assigned for delay was explained in para 5 of the application which reads as under:-

“That the Hon’ble Tribunal delivered the judgment in the instant TA on 14.01.2019. During processing of the case, it was revealed that an error on the face of record has crept into the judgment. The matter was thereafter examined by the authorities at various levels and formations and ultimately it was decided to prefer a Review Application before the Hon’ble Tribunal.”

If the matter was examined by the legal department at the time of filing the Review Application, it is not understandable as to what prevented the respondents from filing the application for grant of leave to appeal at that time. Even in the present application, the same ground has been averred that the matter was examined by the authority at various level and formation and ultimately it was decided to prefer an appeal before the Hon'ble Supreme Court of India.

8. Under the circumstances, the respondents have failed to assign any sufficient cause for not filing the application within time as such there is no ground for condonation of delay in filing the same, is accordingly dismissed.

MA 1771/2020

In order to grant leave to appeal to Hon'ble Supreme Court, it is incumbent upon the applicant to show that some question of law of public importance is involved in the matter which warrants grant of leave to appeal. A perusal of grounds averred in para 6 of the application goes to show that the same pertains to factual matrix of the case and does not involve any question of law of public importance. That being so, even on merits, no ground for grant of leave to appeal is made out.

Dismissed.

(JUSTICE MS. SUNITA GUPTA)
MEMBER (J)

(VICE ADMIRAL P. MURUGESAN)
MEMBER (A)