

ARMED FORCES TRIBUNAL,
REGIONAL BENCH, GUWAHATI

4.

MA-45/2023
With MA-46/23 (AOO OA-52/2019)

UOI & Others

..... Applicant
By legal practitioners for Applicant
PK Garodia, CGSC

-Versus-

Ex-Nk (TS) Tinkho Lal

..... Respondents
By legal practitioner for

Respondents

AR Tahbildar

CORAM :

HON'BLE MR. JUSTICE DHARAM CHAND CHAUDHARY, MEMBER (J)
HON'BLE AIR MSHL BALAKRISHNAN SURESH, MEMBER (A)

ORDER

23.01.2024

(DHARAM CHAND CHAUDHARY, MEMBER (J))

MA 45 and 46 of OA 52/2019

This order shall dispose of both the applications filed for seeking leave to appeal against the order dated 06 April, 2023 passed by this Bench in Original Application No. 52 of 2019 allowing thereby the same after taking into consideration the law laid down by the Hon'ble Supreme Court. The delay of 208 days as occurred in filing the application for seeking leave to appeal is neither inordinate nor deliberate and rather stands satisfactorily explained. Therefore, the same is ordered to be condoned.

2. However, coming to the application filed for seeking leave to file Appeal, the order sought to be appealed reveals that while deciding the Ordinal Application, the law laid down by Hon'ble Apex Court on the point in issue has been taken into consideration. Otherwise also, the order sought to be appealed is neither perverse nor suffers from any infirmity as well as illegality. Even filing of the appeal in this case is also not in the interest of public at large. The prayer for seeking leave to appeal in this matter cannot be granted in view of the observations of the Hon'ble Apex Court in a recent order dated February 18, 2022 passed in Civil Appeal Diary No.(s) 122/2022 titled **Union of India & Ors.Vs.No.2869930A Ex. Havildar Dhanbir Singh**.

This order reads as follows: -

"The time has come that the authorities of the appellant(s) must introspect and find out where the fault lies within themselves. At the same time, we would also like to observe that the employee who has left the services for more than two decades approach the Tribunal with his grievance for release of pensionary benefits including disability pension.

The Tribunal with its consistent view, based on the precedents laid down by this Court has proceeded in granting legitimate relief to the applicant(s).

No one in the office of the authorities of the appellant(s) is examining as to whether it is a fit case for filing an appeal before this Court and same is being filed invariably without default.

The present one has been preferred by the appellant(s) against the order of the Tribunal to which even on merits also, we find no justification".

3. The AFT Chandigarh Bench has also taken similar view of the matter in its recent order dated 26th April, 2022 passed in MA No., 973 and 974 of 2021, filed for seeking leave to appeal, on condonation of delay against an order dated 23.09.2019, passed in OA No. 1406 of 2019 while placing reliance on a previous order dated 01.08.2016 again that of this Bench passed in MA No. 2199 and 2200 of 2016 (OA No. 1635 of 2014), titled **Yashwant Singh Bharmouria Vs. Union of India & Others**.

4. In view of the above, the application filed for condonation of delay is allowed, however, application filed for seeking leave to appeal being devoid of any merits is dismissed.

(Air Mshl Balakrishnan Suresh)
Member (A)

(Justice Dharam Chand Chaudhary)
Member (J)

Mc/Gm