

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A.NO.2309/2002 & O.A.NO.2730/2002

(5)

Monday, this the 10th day of February, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Govindan S. Tamai, Member (A)

Shri Arvind Sharma
s/o Late Shri Devi Kishan
r/o Village Sikri Kalan
Police Station Modi Nagar
District Ghaziabad, UP

Office Address:

Delhi Administration Dispensary
(East Zone)
Bhola Nath Nagar
Shahdara, Delhi-32

..Applicant

(By Advocate: Shri K.P.Gupta)

Versus

1. The Medical Superintendent
Lok Nayak Jai Prakash Narayan Hospital
New Delhi
2. Govt. of NCT of Delhi
through
The Secretary (Medical)
Delhi Secretariat
Near Indira Gandhi Stadium
ITO, New Delhi

..Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

Shri Justice V.S. Aggarwal:

By virtue of the present application, Shri Arvind Sharma (hereinafter described as the applicant) seeks quashing of the order of 19.5.1997 whereby a major penalty of reduction to a lower stage in the time scale of pay for a period of four years has been passed and also of the order passed by the Medical Superintendent whereby period of suspension of the applicant was directed to be treated as not spent on duty. Simultaneously, the applicant seeks quashing of the order passed on 7.10.1999 as a result of which the appeal filed by him has been dismissed.

(Signature)

(2)

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2. Along with the application, the applicant has preferred MA-2309/2002. In the said application, the grounds mentioned for condonation of delay are that (i) due to harsh decisions of the respondents, he had suffered mentally, (ii) he was so much disturbed that he could not seek efficacious remedy within the time prescribed in law; and (iii) he even was suffering from financial constrains. On these grounds, it is clear that the delay in filing of the present application may be condoned.

3. Needless to state that in the reply filed by the respondents, they contested the above said MA. Respondents contend that there are no just and sufficient grounds for condonation of delay.

4. Admittedly, the orders challenged have been passed many years back. The last order, whereby the appeal of the applicant was dismissed, is dated 7.10.1999. The applicant did not come to this Tribunal within one year period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

5. We are conscious of the fact that in case there are just and reasonable grounds forthcoming, this Tribunal, in the peculiar facts of particular case, can condone the delay. But just and sufficient grounds would necessarily be confined to the facts of the said case. It will not be possible to have a straight jacket formula applicable in all such cases.

6. Whenever an application seeking condonation of delay is filed, it has to be explained as what were those

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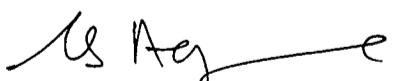
(3)

grounds which prompted the applicant in not filing the application within time. The grounds mentioned above indicate that the applicant's pleas are that he was mentally disturbed and secondly, there were financial constrains. On our query, the learned counsel for the respondents had pointed that the applicant has been attending his duties in this regard. There is precious little on the record to indicate that the applicant was suffering from any specific ailment or was under treatment. In that event, we find difficult to agree with the learned counsel that the applicant, because of the said mental disturbance, did not come to this Tribunal in time.

7. Whenever an application for condonation of delay is filed, each day's delay has to be explained. We at a loss to understand as to when the applicant had thought it appropriate to seek the remedy and from that date, he had to explain the delay. Even that has not been done. The applicant must have been receiving his salary which he continues to do so and, therefore, the plea of financial constrains, in the facts of the case, also looses its significance and thrust.

8. Resultantly, we find no just ground to condone the delay. MA-2309/2002 must fail and is dismissed. As a necessary corollary, OA must also fail and is dismissed.

(Govindan S. Tamai)
Member (A)
/s/


(V.S. Aggarwal)

Chairman