



CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1629/2001

Tuesday, this the 13th day of April, 2004

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

Dr.Vijay Kapoor, I.A.S.,
S/o Brigadier H.L.Kapoor,
D.S.M.M. in DSPc. Resident of 30,
Poorvi Marg, Vasant Vihar,
New Delhi.

..Applicant.

(By Advocate: Shri M.C.Vashisht)

Versus

1. The Union of India,
through its Secretary, Department of
Personnel and Training, Govt. of India,
North Block, New Delhi.
2. The Chief Secretary, Govt. of Bihar,
Patna, Bihar.

..Respondents

(By advocate: Shri Neeraj Goel for Sh.A.C.Aggarwal for
Respondent No.1)

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

The applicant joined Indian Administrative Service in the year 1977. By virtue of the present application, he seeks quashing of the order of 07.07.1998 and further to hold that the deemed resignation of the applicant is illegal and he should be reinstated on the roll of the Indian Administrative Service without any break in service with consequential benefits.

2. Some of the relevant facts are that the applicant worked upto the year 1986 and thereafter he applied for extraordinary leave, which was granted in the year 1986. Later on, he applied for extension of the leave. As there was no specific order granting the leave, he resigned in



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1995 from service. Thereafter, the impugned order was passed on 7.7.1998, which reads:

"The president is pleased to direct that Shri Vijay Kapoor, IAS (BIHAR:77) a member of the Indian Administrative Service borne on the cadre of Bihar (1977 batch) would be deemed to have resigned from the service with immediate effect.

(A.K.SARKAR)
DIRECTOR (SERVICES)"

3. The petition is being contested. It is contended that it is barred by time. In addition to that, on merits of the matter, it is urged that the order passed by the respondents, is not illegal and is in order.

4. The applicant has filed a petition seeking condonation of delay. In this application, the applicant's contention is that on 14.7.1999 when the respondents served a letter for fixation of his pension, he had gone out of India. He had written a number of times to the respondents and, therefore, it is contended that the delay in filing the application may be condoned.

5. The proposition of law is well settled that delay can be condoned only when there are just and sufficient grounds explaining each day's delay to do so. This would necessarily imply in filing application for condonation of delay ~~explaining the reason~~ ^{that reasons must explain} in not filing the application in time.



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6. In the Original Application, the applicant declared in paragraph 3 that the application is in time. It was only when one took the objection that the applicant filed an application seeking condonation of delay.

7. During the course of the submissions, it was pointed that the applicant did not know of the order dated 7.7.1998 and therefore, he could not file Original Application in time.

8. This contention has to be stated is to be rejected. The record shows that applicant was aware of the order dated 7.7.1998. This is apparent from the communication of the applicant, addressed to the Additional Secretary, Government of India (Pension) dated 14.7.1999, wherein he had referred the order of 7.7.1998. At that time, the applicant had prayed for release of his pension and provident fund. This clearly shows that the ground taken in the application for condonation of delay is an afterthought.

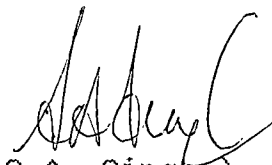
9. It is further contended that the mother of the applicant was unwell and therefore family circumstances prevented him from filing the application in time. In the facts, which we have referred to above, even the said plea is of no avail. There is no such contention in his application seeking condonation of delay dated 12.7.2001. The petition was filed on 4.7.2001, i.e., after the limitation had expired. In the peculiar facts and

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circumstances, we find that there is no ground for condonation of delay. Resultantly, Miscellaneous Application filed seeking the condonation of delay is dismissed and also Original Application must fail and is dismissed.


(S.A. Singh)
Member (A)



(V.S. Aggarwal)
Chairman

/kdr/