

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.496/98

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Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 22nd day of September, 2000

Shri Niaz Ali
s/o Shri Khwaz Ali
Ex. Fitter
Northern Railways ... Applicant

Northern Railway Laksar through

1. Smt. Sakini, widow of the applicant.
2. Shri Nasiruddin, son of the applicant.
3. Shri Immuddin, son of the applicant.
4. Shri Faiz Ali, son of the applicant.
5. Ms. Bano, Daughter of the applicant.
6. Ms. Sajjoo, Daughter of the applicant.
7. Ms. Subratan, Daughter of the applicant.
8. Ms. Tasnum, Daughter of the applicant.

.... Legal Representatives of the applicant.
(By Shri B.S.Mainee, Advocate)

vs.

1. Union of India through
The General Manager
Northern Railway, Baroda House
New Delhi.

2. The Divisional Railway Manager
Northern Railway
Moradabad.

3. The Sr. Divisional Mech. Engineer
Northern Railway
Moradabad. Respondents
(By Shri R.L.Dhawan, Advocate)

O R D E R (Oral)

By Justice Rajagopala Reddy:

Heard the counsel for the applicant and the respondents. The applicant challenges the order of disciplinary authority dated 23.9.1994 by which he was removed from service. As the OA was filed in 1998 the applicant filed MA No.515/98 to condone the delay in filing the OA. It is the contention of the learned counsel for the applicant, Shri B.S.Mainee that as the applicant has been sick and ailing with T.B, coupled with Asthma from 1994 to 1997, he was prevented from seeking of his grievances. Hence the delay has to be condoned in this case.

2. The learned counsel for the respondents, however, contends that as the inordinate delay of more than four years was not properly explained, the OA is hit by Section 21 of the Administrative Tribunals Act, 1985.

3. The only point that arises in this case is whether the OA is within the period of limitation. The ground taken to condone the delay was the alleged ill health of the applicant. It is stated in the MA that he was continuously under treatment of the Railway Hospital or the private hospital and even after the impugned order was passed on 23.9.1994, he remained under treatment of Kripal Medical Centre, Khurja and under the Senior District Tuberculosis Officer, Aligarh till 20.2.1998. To support the allegations, the applicant filed medical certificates dated 26.8.1997 and 20.2.1998. The certificate dated 26.8.1997 was issued by the Kripal Medical Centre stating that the applicant remained under the care of the medical centre from 29.9.1994 to 26.8.1997. This does not however show that he was unable to move about or leave the hospital. Only rest was advised during that period. The latter certificate was issued by the Senior District Tuberculosis Officer, Aligarh only says that the applicant was under domiciliary treatment at the T.B. centre w.e.f. 27.8.1997. It is thus clear that he had taken the treatment only from 27.8.1997 and not before. This certificate did not reveal that he was prevented to go about. We do not therefore find proper explanation to justify the inordinate delay of four years.

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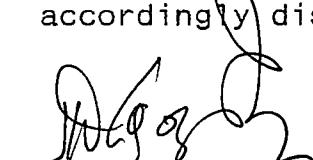
4. Section 21 of the Administrative Tribunals

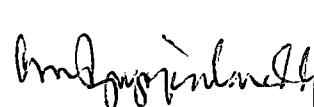
Act, 1985 clearly mandates that the Tribunal 'shall not admit' an application unless it was filed within the period stipulated under Clause (b) of Section 21. The contention that once the OA is admitted, it is not open to the Tribunal to go into the question of limitation, is not acceptable. The Supreme Court in Ramesh Chandre Sharma, etc. Vs. Utham Singh Kamal and Others, 2000(2) AISLJ (R) SC 89 clearly held that the Tribunal fell into an error in admitting the OA and disposing of the same on merits, as it was barred by limitation. Hence it is clear that even after the case was admitted, it is incumbent upon the Tribunal to go into the question of limitation.

5. In Shri P.K.Ramchadran Vs. State of Kerala and Another, JT 1997(8) SC 189, it was held as under:

"Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained."

6. In view of the above, the OA has to be dismissed on the ground of limitation. The OA is accordingly dismissed. No costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/