

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 566 of 1991
T.A. No.

199

11

DATE OF DECISION 3/9/1991.

<u>Jai Prakash Poddar</u>	<u>Petitioner</u>
<u>Shri U.M. Kalra</u>	<u>Advocate for the Petitioner(s)</u>
<u>Versus</u>	
<u>Union of India</u>	<u>Respondent</u>
<u>Shyam Moorjani</u>	<u>Advocate for the Respondent(s)</u>

CORAM

The Hon'ble Mr. J. P. SHARMA, Member (Jud.)

The Hon'ble Mr. B.K. SINGH, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement? JS
2. To be referred to the Reporter or not? HS
3. Whether their Lordships wish to see the fair copy of the Judgement? L
4. Whether it needs to be circulated to other Benches of the Tribunal? 2

JUDGEMENT.

(By Hon'ble Mr. B.K. Singh, Member (A))

This O.A. No. 566/91 Jai Prakash Poddar, applicant Vs. Union of India and Others, respondents, has been filed against the impugned order dated 17-5-82 dispensing with the services of the petitioner in view of the completion of the work of construction of Kosi Bridge. This order was communicated to the petitioner on 28-4-82. The letter of 3rd July, 1990 is in the form of a representation to D.R.M., Sonepur, to provide him alternative employment. In reply to this letter indicating no vacancy was sent on 28-8-90 from the office of D.R.M., Sonepur.

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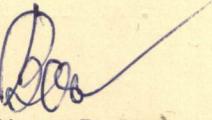
2. A perusal of the record will indicate that the petitioner was appointed as C.L.Worker in N.E. Railway, Sonepur w.e.f. 14-8-1980 (Annexure A-1). His services were dispensed with on completion of Kosi Bridge (Annexure A-2). The cause of action arose in 1982 and the application has been filed in 1991. There has been an unexplained abnormal delay of nearly 9 years. The Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. Katiji (1987 (2) S.C.C. page 107) has given clear guidelines to determine whether there is sufficient cause to condone delay. Where there is a possibility of a meritorious matter being thrown out and the cause of justice being defeated there is scope for condonation and for adjudication on merits. There is hardly any merit in the contention of the petitioner for regularisation since he was a work charged staff. He accepted a job which was time-bound and he knew that his services would be dispensed with when the construction of bridge was completed. He was a work charged employee for a definite period and since he did not raise any howl or protest at the time of accepting the employment, the law of estoppel operates against him. He cannot turn round and demand regularisation after nine years.

3. There is yet another factor to judge the issue of limitation i.e. when the cause of substantial justice is going to be defeated on technical consideration, the cause of justice is to be preferred and technical considerations ignored. We hardly see any justification for condonation of delay in the present case since the petition does not contain any meritorious matter. No attempt has been made to explain the delay and no injustice has been caused to the petitioner warranting

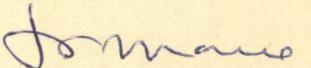
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condonation.

4. It will be a case of misplaced compassion without any justification. In the light of the aforesaid observation⁴ we do not find any ground for condonation under section 21(3) of CAT Act of 1985. In addition to this as already stated law of estoppel operates against the applicant since he did not raise any protest or make any grievance when he accepted an appointment extending only upto the completion of a bridge. The applicant's services were terminated on 17-5-82 and the first letter that he addressed on the subject is dated 3-7-1990. A person who sleeps over his rights forfeits it. In the light of the observations^{where} the application is not maintained on account of inordinate and unexplained delay and is accordingly dismissed. The parties will bear their own costs.


(B. K. SINGH)

Member(A)


(J. P. SHARMA) 3/9/93
Member(J)

Dated: 3/9/93, New Delhi.

(tgk)