

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(61)

O.A.NO. 2825/92

DATE OF DECISION: 18.01.1993.

Shri Prakash Chand

...

Applicant

Versus

Delhi Admn.& Anr.

Coram:-

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

THE HON'BLE MR. J.P. SHARMA, MEMBER(J)

COUNSEL FOR THE APPLICANT : NONE

JUDGEMENT(ORAL)

(delivered by Hon'ble Sh. P.C. Jain, Member(A)).

This case is listed for hearing on admission.

Accordingly, we have perused the O.A.

2. In this application, the grievance of the applicant is against the order dt. 16.11.90 (Annexure-1) by which he was to be relieved on 17.11.1990(FN) to report back to his parent department, namely, BSF from where he had come on deputation to Delhi Police. It is stated in para 4.7 of the O.A. that the applicant made a representation on 8.6.1991 (Annexure-IV). In this representation, it is admitted by him that on 17.11.1990, he was given the repatriation. This O.A. has been filed on 15.10.1992 i.e. after the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985. In para 3 of the O.A., the applicant admits that the O.A. is not within the limitation prescribed and that he is filing a petition for condonation of delay.

(62)

(S)

3. In the petition for condonation of delay, the applicant states that there is a delay of nearly 4 months in filing the O.A. and the delay has taken place because since the order of repatriation was passed on 16.11.1990, he was under Medical treatment. He has filed medical certificate dt. 30.5.1991 from Virmani Polyclinic & Maternity Home according to which the applicant is stated to have been suffering from P.I.V.D. and the period of absence from duty from 18.11.1990 to 30.5.1991 was absolutely necessary for treatment and restoration of his health. It is obvious from the above certificate that this does not show that the applicant was under the treatment of this doctor. Medical certificate has been issued even then for the past. Nothing more needs to be stated about the credibility of such a certificate. Another certificate dated 30.11.1991 has been filed. According to this certificate also, an absence of six months from 31.5.1991 to 30.11.1991 was considered necessary by the doctor. It may be mentioned that this certificate is also for the past period. Another certificate is dt. 13.1.1992 for the period from 1.12.1991 to 13.1.1992. Thus no reliance could be placed on these medical certificates and, therefore, it cannot be said that the applicant has established sufficient reasons for seeking condonation of delay. If he could make the representation, he could as well have also filed the O.A. Even the representation was filed after about 7 months of the impugned order and such a delay in making the

representation would not normally give the benefit of extending limitation in terms of Section 21 of the Administrative Tribunals Act, 1985.

4. Even on merits, the applicant has no legal right for getting absorbed on the post to which he came on deputation as decided by the Hon'ble Supreme Court in the case of Rati Lal B. Soni Vs. State of Gujarat ^{80rs.} reported in AIR 1990 SC 1132.

5. In view of the above, the O.A. is dismissed at the admission stage itself.

J.P. SHARMA
(J.P. SHARMA)
MEMBER(J)

P.C. JAIN
(P.C. JAIN)
MEMBER(A)