

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 01ST DAY OF JULY 2009)

PRESENT

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS MANJULIKA GAUTAM MEMBER- A

ORIGINAL APPLICATION NO. 875 OF 2004.

(U/S 19, Administrative Tribunal Act, 1985)

Narendra Nath Pathak, aged about 66 years, S/o Late B.C. Pathak,
resident of K-2/2, Gaighat, Varanasi.

.....Applicant

By Advocate : Shri S.K. Om

Versus.

1. Union of India through Chairman, Central Tibetan Schools Administration/Joint Secretary (Schools), Department of Education, Ministry of Human Resource Development, C. Wing, Shastri Bhavan, Third Floor, New Delhi-110001.
2. Secretary, Central Tibetan School Administration, Ministry of HRD Government of India, E.S.S. Plaza, Sector III, Rohani, Delhi-110085.

.....Respondents]

By Advocate: Shri N.P Singh

O R D E R

(Delivered by : Justice A.K. Yog, Member -Judicial)

Heard Shri S.K. Om, Advocate appearing on behalf of the
applicant and Shri N.P. Singh, Advocate appearing on behalf of
the Respondents.

2. M.A. NO. 3486/04- praying for condoning the delay in
filing Original Application. This application is supported by
affidavit of Narendra Nath Pathak (the applicant in the O.A.).
3. By means of this O.A., applicant seeks to challenge the
order dated 6.6.1989. Cause shown for condoning the delay is

(Signature)

that he was pursuing remedy before respondents and thereafter he had filed writ petition before Uttarakhand High Court, Nainital, which was finally allowed to be withdrawn by Uttarakhand High Court vide order dated 23.7.2002 in view of departmental letter dated 2.7.2002 (Annexure A-2 to the Affidavit). There is no adequate in accepting the contention of the Applicant. He was bonafide prosecuting remedy before Department/High Court as stated in para 1 to 10 of the affidavit. In para 11 of the affidavit, applicant merely stated that untimely after the withdrawal of the writ petition, respondents paid pensionary benefits to the petitioner. Here itself we may refer to paras 6 and 8 of the affidavit to show that applicant had claimed pensionary/terminal benefits, as per representation dated 20.5.02 (Annexure A-1 to the affidavit). It is therefore, clear that applicant claimed terminal/pensionary benefits vide representation dated 20.5.2002, thereafter department requested the applicant to withdraw the writ petition, which he did and therefore, he paid pensionary benefits. Applicant has, however, failed to disclose the date when pensionary benefits was required to be paid.

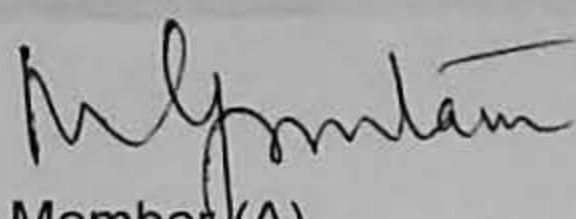
4. Admittedly applicant has not disclosed the date of payment of pensionary benefits. There is about 2 years delay i.e. from 23.7.2002 (when writ was withdrawn) to 5.8.2004 (till filing of the O.A).

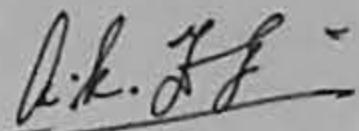
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5. Learned counsel for the applicant also refers to para 12, which we does not improve the case of the Applicant- as it5 does not explain the delay.

6. O.A. is highly time barred as applicant failed to explain about 2 years of delay. O.A is clearly time barred. Applicant has not acted diligentl. Delay Condonation Application rejected. O.A. is also dismissed as not maintainable.

No costs.


Member (A)


Member (J)

Manish/-