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Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD**

ORIGINAL APPLICATION NO.107 OF 2005

ALLAHABAD THIS THE 25th DAY OF JANUARY, 2007

HON'BLE MR. JUSTICE KHEM KARAN, V.C.

Ganesh Prasad, S/o late Shri Gajadhar Prasad, R/o
Village Bhadaila, Post Karampur, District Ghazipur.

.....Applicant

(By Advocate Shri M.M. Sahai)

V E R S U S


1. Union of India, Secretary, Ministry of
Communication, New Delhi.
2. Sub-Record Officer, Rail Mail Services, 'A'
Division, Varanasi.
3. Sr. Superintendent, Rail Mail Services 'A'
Division, Allahabad.
4. Sanjay Kumar Tiwari, through Sub-Record
Officer, Rail Mail Services, 'A' Division,
Varanasi.

.....Respondents

(By Advocate: Sri S. Singh)

O R D E R

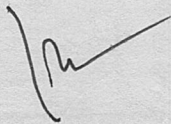
Heard Sri M.M. Sahai, learned counsel for the
applicant and Sri Saurabh, holding brief of Sri
Saumitra Singh, learned counsel for respondents on
the application for condonation of delay in filing
the O.A.

2. The applicant is challenging the appointment of
the respondent no.4, which according to the official
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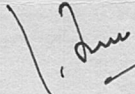
respondents was made on 27.10.98, whereas this O.A. has been filed in the year 2005 after about 6-7 years of the said appointment. What the applicant states is that since he prosecuted Writ Petition bearing no. 38822 of 1998 before the Hon'ble High Court in a bonafide manner and after its disposal in 1998, he prosecuted the contempt proceedings (Contempt petition no. 994 of 1999) in the Hon'ble High Court, so the period consumed in prosecuting the same should be excluded from the period prescribed under Section 21 of the Act of 1985. Sri Sahai has submitted that the contempt proceedings were dropped on 3.12.2004 and immediately thereafter within one or two months this O.A. was filed.

3. The learned counsel for the respondents has opposed the application. for condoning the delay, by saying that the challenge to the appointment of respondent no.4 is totally ill-founded.

4. This much is not in a dispute that a Writ petition was decided in the year 1998 itself. The Tribunal is of the view that the period consumed in prosecuting the contempt matter in the Hon'ble High Court, in the circumstances cannot be taken to be sufficient enough to condone the delay of 5-6 years. The reasons is that in the Contempt proceedings the appointment was not to be set-aside. Either the contemner was to be dealt with under the Contempt of Courts Act 1971 or the Contempt proceedings were to



be dropped, but in no circumstances the appointment of the respondent no. 4 could have been dealt with in those proceedings. In the circumstances, the Tribunal is of the view that there is no sufficient ground to condone the delay in filing the O.A. Consequently, the O.A. is dismissed being barred.


25.1.07
VICE CHAIRMAN

GIRISH/-