

ORDER SHEET

O.A / MA / RA / CP NO. 1398 OF 20 05Applicant/s R.K. Nigam Respdts. UOI & othersAdvocate for Applicant/s D.P. Mishra Advocate for Respondent/s P.N. Rai

Notes of the Registry	Orders of the Tribunal	Sheet No. /
	<p><u>05.08.2010</u> <u>1398/2005</u></p> <p>Hon' Mr. Justice S.C.Sharma, Member (J) Hon' Mr. D.C.Lakha, Member (A)</p> <p>We have heard Mr. Ashok Kumar, Advocate for the applicant and Shri P.N.Rai, Advocate for the respondents on Restoration Application. Application has also been moved for condonation of delay in moving the Restoration Application. From perusal of the order sheet of the O.A. it is evident that on 3rd December, 2007 O.A. No. 1398/2005 was dismissed in default of the applicant. The observation of the Tribunal while dismissing the O.A. is also most relevant.</p> <p>The O.A. was filed without moving application of condonation of delay. Even the O.A. was belated and when this ^{was brought -} brings to the notice of the applicant that the O.A. ^{is} was barred by limitation, ^{but} on direction of the Tribunal application was moved for condonation of delay. After moving application for condonation of delay applicant remained absent and observation has been made that the applicant is no more interested to pursue the matter. This inference of the Tribunal's order dated 03rd December, 2007 is relevant ^{and} in order to decide the application moved for condonation of delay in moving the restoration application.</p>	
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ORDER SHEET

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Applicant/s _____ Respdts. _____

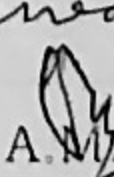
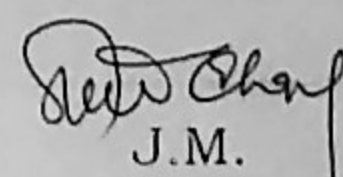
Advocate for Applicant/s _____ Advocate for Respondent/s _____

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	<p>As we have stated that the O.A. was dismissed on 3rd December 2007 but surprisingly the application for restoration has been filed on 19.07.2010 after more than 2 ½ years later. Hence, we capitulate the inference which was drawn earlier on 3rd December, 2007 ^{that} Applicant is no more interested to pursue the matter and this fact is verified ^{inference appears correct due to} the fact that the restoration has been moved after 2 ½ years. All the ^{these} circumstances shows that applicant was no more interested to pursue the matter. For him it was only luxury litigation although his service was terminated.</p> <p>Learned counsel for the applicant argued that earlier Mr. D.P. Mishra was conducting the case on behalf of the applicant, no intimation was given by him regarding the proceedings of the case and every time when applicant tried to ascertain about the progress of the case, assurance was given that the case is proceeding.</p> <p>Only responsibility has been laid on the Advocate of the applicant, ^{But} this ^{is a} lame excuse. It is a matter of general knowledge to everybody that if a person lost his job and the matter is before the court, then he will pursue the matter with all diligence. He will not leave the matter wholly on the Advocate to pursue the matter. It is highly</p>	

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	<p>unbelievable that even after 2 ½ year applicant could not know about the dismissal of the O.A.</p> <p>Moreover, it is also a fact as pleaded in the application that after knowing regarding dismissal of the case the application was moved on 26 April, 2010 for certified copy and copy was received by him on 28th April 2010. The matter ^{was} further ^{delayed} related and application was moved on 19th July, 2010. It further shows that the applicant was no more interested to pursue the matter. In our opinion no explanation at all has been given to the delay and the explanation has been adduced is a lame excuse. ^{Even} after 10 years a person can come to the Court and can say no intimation ^{has been} has given about the progress of the case by the Advocate. A person who is aggrieved should remain vigilant for his rights. And it is known proverb-- "God helps ^{those} them who helps themselves" and not those who are sleeping on ^{their} his rights. We don't find any justification to condone the delay in moving application for restoration. The application is liable to be dismissed. Hence the application for condonation of delay is dismissed. ^{And} restoration appli'cation shall also stand dismissed.</p> <p style="text-align: center;">  A.M. /Shashi/ </p> <p style="text-align: center;">  J.M. </p>	

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