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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No. 262 of 1988

Nawal Kishore ... Applicant

Vs.

Union of India & 2 others ... Responde-nts

Hon.D.S.Misra, AM
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

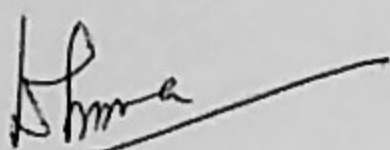
This petition under Section 19 of the Administrative Tribunals Act XIII of 1985 was filed by the applicant on 3.3.1988 for a direction to the respondent nos. 2 and 3, namely, Permanent Way Inspector, Dehradun and Assistant Engineer Roorkee of the Northern Railway to give ~~the~~ duty as a casual labour to the applicant with immediate effect and to pay him the arrears of pay from 15.5.1986 with other benefits. According to the applicant, he worked as a casual labour in the Northern Railway for 120 days in 1987 and 147 days from 19.12.85 to 14.5.1986 and all of a sudden he was not given any duty from 15.5.1986 despite his representations dated 18.6.1986, 2.3.1987 and 23.11.1987. Taking into consideration his first representation of 28.6.1986 this petition should have been presented by the applicant upto 28.12.1987. The applicant has moved a separate application to condone the delay in filing this petition with the allegation that he was ill from 5.11.87 to 29.2.1988. He has filed an affidavit in support of his illness as well as a medical certificate of a private practitioner. The certificate is dated 7.2.1988 and mentions that the applicant is under treatment from 5.11.1977 and he required bed rest for 3 weeks i.e. upto 19.2.1988. The applicant alleges that he came to Allahabad on 29.2.1988 and entrusted his case to his counsel. There is no explanation

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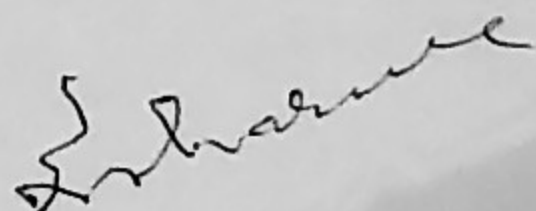
as to why the petition could not be filed on 1.3.1988 or 2.3.1988. In this way, the delay of two days still remains unexplained. It further appears from the record that the applicant is the resident of District Moradabad while the medical practitioner from whom the certificate was obtained by him belongs to Dehradun. The certificate was issued on 7.2.1988 and it is not understandable as to how the applicant who was ill went to Dehradun on 7.2.1988 for obtaining this certificate. The affidavit and the medical certificate produced by the applicant therefore, do not inspire confidence and we are unable to accept the same. They appear to have been manufactured for the purpose of this case and the delay of more than 2 months in presenting this petition cannot be condoned.

2. The application for condonation of delay is accordingly rejected and the petition filed beyond the prescribed period of limitation is hereby dismissed. We, however, direct the respondents to consider the case of the applicant for absorption/regularization of the applicant in the light of the directions of the Hon. Supreme Court in the case Indra Pal Yadav Vs. Union of India (1985 (2) SCC-648) and other cases on this subject.



MEMBER(A)

Dated: 30-5-1988
kkbv



MEMBER(J)