

Open Court

Central Administrative Tribunal
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 18th Day of February, 2000

Coram: Hon'ble Mr. Rafiq Uddin, J.M.
Hon'ble Mr. S. Biswas, A.M.

Original Application No. 1500 of 1992.

Distt. Pilibhit.

Sri Krishna Sharma,
aged about 31 years,
son of Sri Mool Chand,
resident of village and P.O. Gulab Tanda,
District Pilibhit.

. . Applicant.

(Through Sri R.K. Mehrotra, Adv.)

Versus

1. Director, Postal Services,
Dehradun Range, Dehradun,
2. Senior Superintendent of Post Office,
Nainital Division, Nainital.
3. Sub Divisional Inspector (Postal) Pilibhit Sub
Division, Pilibhit.
4. Assistant Superintendent of Post Offices,
Nainital (East), Sub Division, Nainital.

. . Opp. Parties.

Order (Open Court)

(By Hon'ble Mr. Rafiq Uddin, J.M.)

The applicant in this O.A. has sought the relief of setting aside the order dated 30.1.89 whereby he was removed from the post of E.D.B.F.M. at Gulab Tanda, Distt. Pilibhit. The applicant has also sought quashing of order dated 29.6.1989 whereby his appeal filed against his removal order has been rejected. The applicant has further sought direction to be reinstated in service with full back wages.

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2. The applicant at the relevant time was posted as E.D.B.P.M. at Gulab Tanda, Distt. Pilibhit. He was removed from service vide ^{removal}impugned/order dated 30.1.1989 after holding departmental enquiry against him under rule 8 of E.D.A. Service Conduct Rules dated 13.3.89 1964. The appeal/filed by the applicant was also rejected vide order dated 29.6.89 by respondent No.1.

2. None has appeared on behalf of the applicant. We have heard Sri S.C. Tripathi learned counsel for the respondents. The pleadings on record were also considered.

3. The learned counsel for the respondents has contended that the O.A. being time barred is liable to be dismissed without considering merit of the case. The applicant has challenged the removal order dated 30.1.89 and rejection of his appeal vide order dated 29.6.89. The present O.A. has been filed in the year 1992 i.e. after three years delay.

4. The applicant has moved application under section 21(iii) of the Administrative Tribunals Act 1985 for condonation of delay in filing the present O.A. It has been stated in the application that the applicant handed over the file of his case to Sri N.C. Jain, Advocate, resident of B-61 Indira Nagar, Lucknow in the month of January 1990. Sri N.C. Jain, Adv. had promised him that he would file the application at Allahabad before the Tribunal. The applicant was in constant touch with Sri N.C. Jain Adv. who had told him that he had sent his application to his brother Sri B.C. Jain, Adv. for filing before C.A. who had filed the same in the Tribunal. The progress of the case would be intimated to him

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The applicant came to know in the first week of August 1991 that his counsel Sri Jain was bedridden. The applicant was however assured by Sri Jain that his case had already been filed by his brother in the Tribunal. When the applicant contacted him in the month of February 1992, the applicant was, however informed by the son of Sri N.C. Jain, Adv. in the month of October 1992 that Sri N.C. Jain was no more and also promised to search out his file which was handed over to him by his son in the month of October 92. Thereafter the applicant engaged Sri R.K. Mehrotra, Advocate who is resident of Shakti Nagar, Lucknow and came to know about application having not been filed by Sri N.C. Jain therefore Sri R.K. Mehrotra Adv. filed the present O.A.

5. It has been contended by the learned counsel for the respondents that the ground for condoning the delay is not sufficient because it is not ^{convincing} ~~natural~~ that the applicant would have waited for more than two years without ascertaining the fate of his O.A. for such a long period. The explanation appears to have been given just to justify the delay in filing the present O.A. There is no reason to believe that an Advocate would mislead the applicant or keep in dark by not filing the O.A. in time without any reason. The grounds mentioned by the applicant do not inspire confidence and appears to be an after thought. There is no sufficient ground to justify the contention of delay in the present case. The application for condonation of delay is accordingly rejected. We, therefore, do not consider it necessary to discuss the merit of the O.A. The O.A. is dismissed. No order as to costs.

S. B. Rao
Member (A.)

Rajiv Mehta
Member (J.)

Nafees.