

(Reserved
on 13.5.2013)

**CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT SITTING OF ALLAHABAD BENCH
AT NAINITAL**

NAINITAL THIS THE 22nd DAY OF May, 2013

**HON'BLE MS. JAYATI CHANDRA, MEMBER -A
HON'BLE MS. JASMINE AHMED, MEMBER - J.**

CIVIL MISC. RESTORATION APPLICATION NO. 2901 of 2011
In
ORIGINAL APPLICATION NO. 1409 OF 2003 (U)

Jagannath Ram S/o Late Shri Fakir Ram, R/o Village & P.O. Deori,
District Champawat.

.....Applicant
VERSUS

1. Union of India through Director General (Post), New Delhi.
2. Chief Post Master General Uttaranchal, Dehradun.
3. Superintendent of Post Offices, Pithoragarh Division,
Pithoragarh.
4. Inspector of Post Offices, Dharchula Sub Division, District
Pithoragarh.

.....Respondents

Advocate for the Applicant: Shri N.P. Singh
Shri C.D. Bahuguna

Advocate for the Respondents: Shri D.S. Shukla

O R D E R

DELIVERED BY:-

HON'BLE MS. JAYATI CHANDRA, MEMBER - A

This O.A. has been dismissed in default on 22.10.2008 and
applicant has filed Misc. Application No. 2900/11 supported by
affidavit for recalling the order dated 22.10.2008.

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is J. A.

2. The plea taken by the applicant that he resides in a remote village Deori in District Champawat from where communication is difficult. He had entrusted his case originally to learned Advocate Shri C.D. Bahaguna, who filed the original case on 19.8.2003. The O.A. was admitted on 06.08.2004. After the establishment of Hon'ble High Court of Uttarakhand at Nainital, Shri Bahaguna left Allahabad entrusting this case to learned Advocate Shri A.K. Tiwari. However, due to non-appearance of Shri Tiwari case was dismissed on 23.10.2008.

3. Present Restoration Application along with delay condonation prayer has been filed on 9.11.2011 after the applicant visited Allahabad on 19.10.2011.

4. The reason for delay of 3 years has been explained in terms of remoteness of his place of residence, which according to him is "not even connected by Postal services".

5. A perusal of the ordersheet of this case shows that once before the case was dismissed on 29.09.2004. Restoration Application was filed on 10.1.2007 after a delay of more than 2 years. The grounds taken in the restoration application and delay condonation were the

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same as in the present one, that is the remoteness of the village of applicant and the failure of his advocate to properly represent him. The delay of more than 2 years was condoned in view of the remoteness and the careless attitude of the advocate and the O.A. was restored by order dated 07.01.2008

6. Once again due to no proper representation, O.A. was dismissed by order dated 22.10.2008. Hence this M.A.

7. The respondents filed their objection to the delay condonation application No. 2901 of 2011 stating that proper Postal facilities are available in District Champawat with a Branch Post Office at Village Deori. All post is distributed regularly by the respondents. Thus the communication difficulties cited to explain a delay of 2 years, 11 months and 29 days is not tenable.

8. The factual statement has not been rebutted by the applicant.

9. Section 21 of Administrative Tribunal Act, 1985

"Limitation. (i) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(B) in a case where an appeal on representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

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- (a) *the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and*
- (b) *no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.*

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

- (3) *Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period".*

10. It was expected that applicant who was an employee of the Postal Department and who had already experienced the lack-advisical attitude of his counsel would be more vigilant at least the second time around, specially after indulgence was shown to him once (on 07.01.2008).

11. The Misc. Application, therefore lack merits and accordingly, the same is dismissed. No costs.

Jasmine Almeida
Member (J)
Manish/-

J Chavade
Member (A)