

(4)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 17<sup>th</sup> day of September 2007

Original Application No. 1075 of 2006

Hon'ble Mr. Justice Khem Karan, Vice-Chairman  
Hon'ble Mr. Shailendra Pandey, Member (A)

Badam Singh, S/o late Ram Das, R/o Village - Naya  
Gnaw, Near Cotton Mill, Gwalior Road, Jhansi.

. . . .Applicant

By Adv: Sri O.P. Gupta

V E R S U S

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. Dy. Chief Material Manager, North Central Railway, Jhansi.
3. General Manager, North Central Railway, Allahabad.
4. Mohd. Unis, Motor Lari Driver Gr-III, through Dy Controller of Stores, NCR, Jhansi.

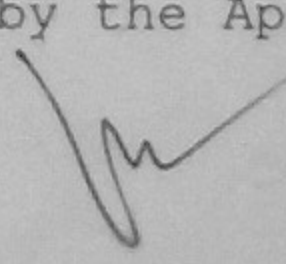
. . . .Respondents

By Adv: Sri D. Awasthi

O R D E R

By Hon'ble Mr. Justice Khem Karan, Vice-Chairman

This OA has been filed after expiry of the period of limitation prescribed under Section 21 of the A.T. Act, 1985, together with an application, supported by an affidavit for condonation of delay. It is stated in para-4 of the affidavit that there is no deliberate or intentional delay on the part of the applicant in filing this OA and it has also been stated in para-5 that in view of the law laid down by the Apex Court in

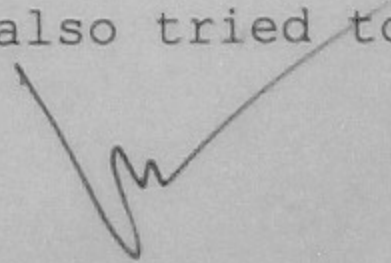




State of Bihar and others Vs. Kameshwar Prasad Singh and another [2000 (3) ESC 1765 (SC)] the delay should normally be condoned as there is no presumption that there was any deliberate delay on the part of the applicant. Sri D. Awasthi has opposed this application.

2. We have heard learned counsel for the parties on this application. The applicant has challenged the reversion order dated 06.05.2002 (Annexure A-3) and is praying that the respondents be directed to regularise the period from 03.05.2002 treating the applicant as continuously holding the post of Motor Lari Driver.

3. The case of the applicant is that while working as Senior Khalasi, he was promoted on 03.05.2002, to the post of Motor Lari Driver Grade III in the pay scale of Rs. 3050-4590, but after 02 or 03 days he was reverted vide order dated 06.05.2002. It is stated that he sent several representations, reminders and even legal notices to the authorities for quashing the said reversion order dated 06.05.2002 and while all these were pending, he was promoted again on 08.06.2005 to the post of Motor Lari Driver. Sri Gupta wants to say that it was on promotion dated 08.06.2005 that the cause of action arose to the applicant to claim that order dated 06.05.2002 be quashed and to claim continuity on the post of Motor Lari Driver since 2002. He has also tried to say that






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the applicant was not sleeping over the matter, but was representing to the authorities against the said reversion order and so, in the circumstances, it cannot be said that the applicant delayed the matter with any ulterior motive. Learned counsel has also submitted that in view of what Hon'ble Supreme Court says in the case referred to above and in several other cases on the subject of condonation of delay, the delay caused in filing this OA deserves to be condoned. Sri Gupta has also submitted that had this order dated 08.06.2005 not being passed, the applicant would have got no occasion to claim the relief as mentioned above.

4. Sri Awasthi has argued that order dated 08.06.2005 by which the applicant has been promoted to the post of Motor Lari Driver, has nothing to do with the order dated 06.05.2002, by which the applicant was reverted. He says that for challenging the order dated 06.05.2002, the cause of action arose on the date said order was communicated to the applicant and giving of representations or legal notices would not stop the running of the limitation period, which started from the date the said order was communicated.

5. We have considered the respective submissions of the learned counsel for the parties, in the light of the material on record and also in the light of the judicial pronouncement of the Apex Court referred to

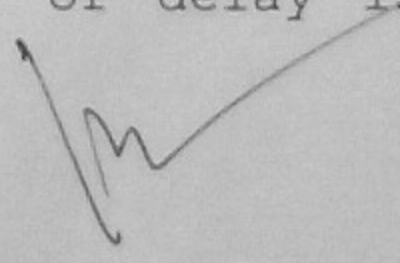




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above. This much is well settled that there should be sufficient ground for condoning the delay under Section 21 of the A.T. Act, 1985. The applicant was conscious that delay was there so he moved this application. It is again well settled that giving of several representations will not stop the running of or extend, the period of limitation. Whether the applicant was diligent or negligent in perusing his case in the context of the order dated 06.05.2002 has to be seen in the light of the material placed on record. It is true that there is no presumption that the delay was intentional. But that is not the only point for condonation of delay. It is also the requirement that the applicant should show to the satisfaction of the Court or Tribunal that he was vigilant and diligent. It is stated that legal notices were also given in the context of the order referred above. If legal notices were given and the matter was kept at that till the expiry of the limitation, we do not think it is a case fit one for condonation of delay. Order of 2002 is being challenged in the year 2006 and the relief of continuity in service is being sought with reference to the same.

6. So after considering the respective submissions and perusing the material on record, we do not find sufficient grounds for condoning the delay. Application for condonation of delay is rejected and



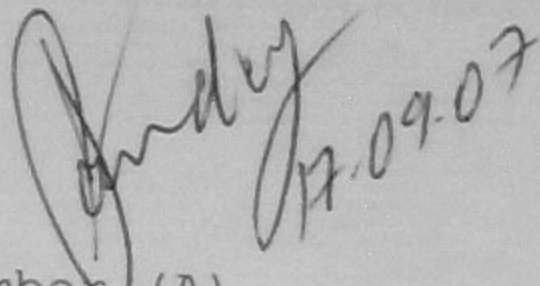


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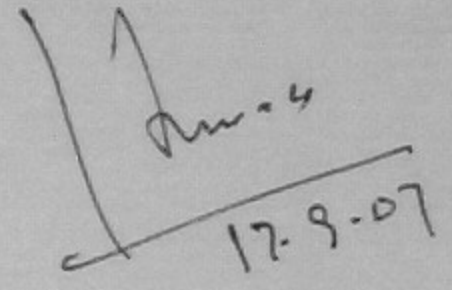
accordingly the OA is also dismissed as time barred.

No order as to costs.

7. After the above orders were dictated in the Open Court Sri Gupta stated that he may be permitted to withdraw the relief for quashing of the order dated 06.05.2002. We think this is not possible now.



Member (A)



Vice-Chairman

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