

(A)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 807 OF 2006

ALLAHABAD THIS THE 18TH DAY OF FEBRUARY, 2008

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J
HON'BLE MR. K. S. MENON, MEMBER-A

1. K. C. Kureel, S/O Shri Maiku Lal,
Presently posted as Tracer in Field
Gun Factory, Kanpur, R/o F 794
Gukaini, Kanpur.
2. V.N. Srivastava, Son of Late R.k.
Srivastava, Aged about 50 years,
Resident of F-49 Gujaini, Kanpur
City, Presently posted as Chargeman Grade-II in
field Gun Factory, Kanpur.

..... .Applicant

By Advocate : Shri V. Budhwar, Shri Ankush Tandon

Versus

1. The Union of India through Secretary,
Department of Defence Production,
Ministry of Defence, Government of India,
New Delhi.
2. General Manager,
Field Gun Factory,
Kalpi Road, Kanpur City.
3. Shri V.k. Kukraiti, S/O Not Known,
presently posted as Chargeman Grade-I
in Field Gun Factory, Kanpur.
4. Shri Syam Swaroop, Assistant
Foreman, in Field Gun Factory,
Kanpur.

Service upon respondent no.3 and 4 to
Be affected through respondent no.2.

..... .Respondents

By Advocate : Shri Saumitra Singh & Shri M.K. Upadhyay

ORDER

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J

Heard Shri S. K. Mishra, holding brief of Shri
Vikas Budhwar, Advocate appearing for the applicants,

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Shri Saumitra Singh, Advocate appearing for respondent nos.1 and 2 and Shri M. K. Upadhyay, Advocate appearing for respondent no.3 and 4. The scrutiny report of the registry shows that the OA is time barred. A delay condonation application (M.A. NO.2352/06) was filed (purported to be under section 5 of the limitation Act) along with the O.A. Limitation Act does not apply. The said application can be entertained by treating it under correct provision- namely under section 21 (I), of The Administrative Tribunals Act, 1985 (called 'Act of 1985').

2. Order sheet of the Original Application shows that the parties were noticed to enable them file their Objections/Reply by exchanging pleadings. Before hearing OA on merit, the Tribunal is to consider the prayer for condoning the delay in filing O.A. before the Tribunal. Learned counsel for the Respondents, refers to their respective counter affidavits, wherein they have categorically denied the averments made in the aforesaid Misc. application for seeking condonation of delay. According to them, the applicants fails to satisfy that they were prevented by 'sufficient cause' beyond their control for not approaching the Tribunal within prescribed period of limitation contemplated under Section 21 of Act, 1985 and the Applicants have failed to make out a case for condoning long delay.

In the present M.A. seeking condonation of delay, requisite facts/pleadings, required 'for condoning



'delay' under Act, 1985 are conspicuously absent. The applicants have nowhere stated that he was prevented by sufficient cause or that he was not aware of the impugned order at the relevant times. There is not a whisper as to why they could not approach the Tribunal earlier. There is long delay of about 20 years, which has not been explained. The general rule of law is that court does not help those who sleep over. The applicant cannot be allowed to unsettle long settled things at this stage.

4. In para 6 of the counter affidavit (filed on behalf of respondent no.1 and 2 sworn by one Shri S. B. Mishra), it is stated that the present OA is being filed after 20 years, which is highly belated and cannot be ignored. In para 2 of the counter affidavit (filed on behalf of respondent no.3 and 4 sworn by Vijay Kumar Kukraiti) it is stated that the applicants had knowledge not of the impugned 'orders' in question including the Appellate order passed way back on 1986 by they did not take care challenge the same promptly and within requisite statutory period of Limitation. No ground/reason has been assigned for sleeping over the matter and approaching the Tribunal after about 20 years.

5. The learned counsel Shri S. K. Mishra holding brief of Shri Vikash Budhwar Advocate appearing for the applicants, at this stage orally submits that he be allowed to file supplementary rejoinder affidavit

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in reply to supplementary counter affidavit-II (filed by respondent no.1 and 2 through Shri Saumitra Singh, Advocate) in order to bring on record-requisite/explanation.

6. It is not disputed that copy of said supplementary counter affidavit-II was received by the learned counsel for the applicants in November 2006. We find no good reason to grant time to file supplementary rejoinder affidavit at this belated stage when Tribunal has already devoted considerable time and on that ground adjourn hearing of the case. We also refuse to adjourn the case since we are placing no reliance upon facts-exclusively mentioned in the said supplementary counter affidavit-II.

7. As per the pleadings contained in the Misc. application seeking condonation of delay, we find that the pleadings/averments therein are vague, cryptic and evasive; andthere is no explanation to explain delay of 20 years (Approx). The applicants have miserably failed to explain the inordinate delay of 20 long years. Misc. Application praying for condoning delay has no merit and it is accordingly dismissed. Consequently OA is also dismissed as time barred. No order as to costs.

Jainani
Member-A

/ns/

A.K. H.S.
Member-J