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O.A. 173/92

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Order dated 11.3.2002

Applicant, in this Original Application, seeks direction on the Respondents to quash the disciplinary proceedings and to reinstate him in his substantive post, with all consequential benefits.

The brief facts of this case are that the applicant was appointed provisionally and purely on temporary basis as E.D.M.C. in Kadampal B.O. under Dharmasala on 13.3.1973. While he was working as such he remained absent for two days, without permission. According to applicant, he, however, took permission from the B.P.M., Kadampal orally. The Respondents, in the meantime, put the applicant off duty. It is stated by the applicant that an enquiry was instituted by the Respondents on the allegation of misconduct. Till now the applicant has not been served with the charge sheet nor has he been reinstated in the post held by him. Aggrieved by this he has filed this O.A. claiming the aforesaid reliefs.

Respondents, in their counter reply have stated that the applicant remained absent from duty. He ought to have arranged for his work being carried out by a substitute, who should be a person approved by the competent authority to sanction leave. But the applicant had neither obtained approval of the Inspector of Post Offices to remain absent from duty w.e.f. 17th May, 1996, nor did he provide any substitute to manage his work, for which conveyance of mail bags of Kadampal and Banamalipur BOs was dislocated for days together. As a result, the

Inspector of Post Offices, Jajpur Road had no alternative but to place the applicant off duty and made alternative arrangement by appointing another man on 24.5.1976 for the restoration of mails. The applicant has never approached the Inspector of Post Offices, Jajpur, for his reinstatement. Rather he remained absent and silent for 16 years. On the other hand, no charge sheet could be served on him due to his prolonged absence from his home. The person appointed in his place has been working satisfactorily since 1976 and his displacement at this stage would lead to further legal complications. In view of these facts, respondents pray that the O.A. lacks merit and therefore, the same is liable to be rejected.

Heard both the learned counsels for the contesting parties.

On perusal of papers placed before us we find that the applicant was put off duty in the year 1976 and he remained silent for 16 years and thereafter he filed this O.A. in the year 1992. Respondents had filed their reply in the year 1994. The applicant has filed his rejoinder only to-day, which has been rejected and the same has not been taken on record. We find that there is a gross delay on the part of the applicant in approaching the Tribunal and therefore, the O.A. is hopelessly barred by limitation. Besides, no application for condonation of delay has also been filed by the applicant. In view of well settled principle of law as laid down by the Hon'ble *vs. State of Punjab* reported in

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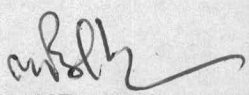
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of the order
of 11-3-02
given to the
both counsel.

Patna
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Ans
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Supreme Court, time & again^{if} no application for
condonation of delay is filed by the applicant,
the Tribunal cannot entertain and * adjudicate
upon the application. Apart from the ground of
limitation, we have also considered the
application on merit. We find that the applicant
has not made any effort to approach the Respondents
for his reinstatement nor has he submitted any
representation to this effect to the respondents.
The applicant failed to show us any document/
paper where-by he has requested the respondents
to consider his prayer for reinstatement, during
last 26 years. It only shows that the applicant
is gainfully employed elsewhere and is not
interested in working as E.D.M.C.

For the reasons discussed above, the O.A.
is devoid of any merit and is accordingly
dismissed. No costs.


MEMBER (ADMINISTRATIVE)


11/03/2002
MEMBER (JUDICIAL)