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4.9.98

    On 2.9.1998, we heard the learned counsel for the applicant on admission.

    The applicant, who joined as Postmaster on 24.3.1980 in Kendupatna S.O. was put under suspension eight months thereafter because of his involvement in a case of misappropriation. The suspension order was revoked on 31.12.1981 and he was posted under SDI(P)Kendrapara S.O.(Res.4) to join as Postmaster in Bhagabatpur. On18.6.1983 he was again placed under suspension on the ground of charges of misappropriation during his period at Kendupatna. A disciplinary proceeding was initiated against him and on the basis of that proceeding Res.3, the disciplinary authority removed him from service by his order date 24.7.1984. Thereafter he preferred an appeal before Res.2 on 10.9.1884 and this appeal was rejected.

    On these averments he filed this application on 14.7.1998 seeking quashing the order of removal passed by Res.3 and consequently his reinstatement with all consequential benefits mainly on the ground that the disciplinary proceeding has not been conducted in a fair and reasonable manner, but in an illegal and arbitrary manner without giving adequate opportunity to him to defend his case.

    As per his own averment the removal order was passed by Res.3 on 24.7.1984, i.e. more than 14 years back. He preferred an appeal within time, i.e. on 10.9.1984 and the same was rejected. We cannot assume that the appeal preferred by the applicant on 10.9.1984 has been lying undisposed of all these 14 years. It is also not his case in the application that the appeal was pending undisposed of all these years and disposed of

recently. It is presumed that this appeal was disposed of either during the later part of 1984 or in the earlier part of 1985.

When we pointed out this aspect of inordinate delay in filing this application without any petition for condonation of delay or without any explanation whatsoever even in the application as to the cause of this delay, the learned counsel insisted that the application can be admitted and therafter on the appearance of the respondents the point regarding delay can be considered. We are not inclined to accept this suggestion of the learned counsel, because, under Section 21 of the Administrative Tribunals Act, 1985, an application shall not be admitted unless it is filed in time, i.e. within the limitation period and if it is filed beyond the period of limitation, the applicant must be able to satisfy the Tribunal that he has sufficient cause for not making the application within such period. In other words, this Section is clear that unless the delay has been properly explained to the satisfaction of the Tribunal, and the same is condoned, an application cannot under any circumstances be admitted.

We are aware that when this aforesaid principle of law was pointed out to the learned counsel, the latter orally submitted asked for time, so that the applicant will obtain necessary medical certificate, and then file a petition for condonation of delay. The delay occasioned is nearly 14 years. This submission of the learned counsel gives us an impression that the applicant is still not ready with any explanation and that he would require some more time for offering satisfactory explanation and that too after procuring some medical

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certificates. Any explanation of such nature considering this inordinate delay of nearly 14 years can never be to the satisfaction of the Tribunal.

We therefore, have no hesitation to hold that this application is hopelessly barred by time and is accordingly dismissed not being admitted.

VICE-CHAIRMAN

MEMBER(JUDICIAL)

A copy of the order No. 1 dt. 4.9.98 may be given to the applicant's Counsel.

08.09.98

Received copy of ords dto. 4.9.98

8/9/98

Free copy of the order dt. 4.9.98 with copy of original application may be sent to R-2 to R-4 by regd. post. The same could not be sent to R-1 due to shortage of requisite.

Rah
9/x/98

09.10.98
S-O