

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No. 855 of 2004
Cuttack, this the 30th day of June, 2005

Aparajita Sahu Applicant

Vs

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not ? ^{1/2}
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? ^{1/2}

M. R. Mohanty
30/06/05
(M.R.MOHANTY)
MEMBER (JUDICIAL)

B.N.SQM
(B.N.SQM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 855 of 2004
Cuttack this the 30th day of June, 2005

CORAM :

HON'BLE SHRI B.N.SQM, VICE-CHAIRMAN
AND
HON'BLE SHRI M.R.MOHANTY, MEMBER(J)

.....

Aparajita Sahu, aged about 26 years, Daughter of Hrusikesh Sahoo, permanent resident of village: Rampur, P.O. Chhatia, P.S. Badachana, Dist. Jajpur.

..... Applicant

By the Advocates - M/s. B.S.Tripathy,
M.K.Rath, J.Pati.

VERSUS

1. Union of India, represented through the Special Secretary, Aviation Research Centre, Directorate General of Security, Cabinet Secretariate, East Block V, R.K.Puram, New Delhi-110066.
2. The Assistant Director (A), Aviation Research Centre, Directorate General of Security, Cabinet Secretariate, East Block V, R.K.Puram, New Delhi-110066.
3. The Deputy Director (A), Aviation Research Centre, Aviation Research Centre, Charbatia, At/PO :Charbatia, P.S. Choudwar, Dist. Cuttack.
4. Maheswata Kar, at present working as Staff Nurse, Aviation Research Centre Hospital, At/PO: Charbatia, Dist. Cuttack.

..... Respondents

By the Advocate - Mr. B.Dash, ASC
(For R-3).

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O R D E R

SHRI B.N.SQM, VICE-CHAIRMAN :

Aparajita Sahu has filed this O.A. ventilating her grievance that although she belongs to OBC category and had applied for the post of Staff Nurse in A.R.C. Hospital, Charbatia which was reserved for O.B.C. was category and possessing the requisite qualification was not called for interview. She has, in the circumstances, approached the Tribunal for issuance of a direction to the Respondents to consider her case for the post of Staff Nurse which is still lying vacant in that hospital.

2. The case of the applicant, in a nutshell, is that, being attracted by the Circular dated 18.10.2000, issued by Assistant Director(A) (Respondent No.2) for filling up two posts of Staff Nurse(Group-C) in the A.R.C. (Para-Medical) Services by direct recruitment, she submitted her application on 4.11.2000 to Charbatia sub-post office under certificate of posting along with the relevant documents as required by the authorities well before the last date for submission of applications, i.e., 30.11.2000. As she did not get any call letter, she sent a telegram to the Respondent No.2 requesting him to issue call letter in her favour but without any success. But, immediately the applicant came to know that the interview was held on 14.2.01 and Respondent No.4 was selected for the post

although he belongs to General category and also was least qualified than the applicant.

3. Per contra, the Respondents have opposed the application both on facts as well as in law. They have submitted that the application is hopelessly barred by the law of limitation since the applicant seeks to raise the question of selection made in the year 2000 in the present application, and that also without submitting any formal application for condonation of delay. On this ground, itself, the application deserves to be rejected. On the merit of the case, they have submitted that no application was ever received by them from the applicant. In support of their contention, they have pointed out that the applicant has made out a story because, according to her submission, the application was sent under certificate of posting and not through registered post. The fact of the matter is, the applicant had never submitted any application, and, therefore, the question of considering her case, ^{did} not arise. It is also on this account of non-availability of her application that they did not send any response to the telegram sent by her on 9.2.01 which was received by them on 16.2.01 after the interview for the post was over. They have further submitted that the applicant had not made any representation earlier, in this regard, to them and that her silence for all these years has not been rationally explained.

4. We have heard the Ld. Counsel for the rival parties and have perused the records placed before us.

5. The short question to be answered in this application is whether the applicant had submitted the application, complete in all respects, for the post in question and whether that was duly received by the Respondents. The fact of the matter is, the applicant has not been able to prove the delivery of the application to the Respondents. Infact, she has admitted that she sent the application by ordinary post and for ordinary post no documentation is maintained at any point by post office for proving delivery. Without proving entrustment of the document with the Respondents, it is well nigh impossible to hold the Respondents responsible for any omission with regard to her application. This Application is also seriously handicapped on account of delay for over four years in agitating the matter, for which no rational explanation is available. It is not open to the applicant to ventilate her grievance at any time according to her convenience, without explaining why she had remained silent for all these years. Law is already settled in the Rathore's case by the Apex Court that condonation of delay can not be taken for granted, and, if an application is submitted belatedly without explaining the delay for every day, it would be open to the Court to ignore such application. The delay in this case is not only un-acceptable due to efflux of time but none of the submissions made by the applicant, actually with regard to submission of her application for the post is amenable to verification.

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6. That being the facts of the case, this O.A. deserves to be dismissed on account of long delay. We order accordingly. No costs.

M. R. Mohanty
20/06/08
(M.R.MOHANTY)
MEMBER (JUDICIAL)

B.N.SQM
B.N.SQM
VICE-CHAIRMAN

KUMAR