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O.A.No. 173 of 2007

Rabindranath Acharya Applicant
Vs.
Union of India & Others Respondents

C O R A M:

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN
A n d
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER(A)

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Order dated 05.03.2008.

Heard Learned Counsel appearing for the Applicant and perused the materials placed on record.

2. By filing this OA on 22.07.2007, the Applicant, virtually, seeks execution of the order under Annexure-1 dated 13.08.1984 by which the Applicant was offered appointment as a Primary Teacher in Kendriya Vidyalaya Sangathan. In the said offer of appointment, it was clearly mentioned that 'unless he (Applicant) reports to duty by 31.08.1984, the offer of appointment (dated 13.08.1984) shall stand cancelled without further correspondence'. It appears that the Applicant did neither send his acceptance in the prescribed format nor reported to duty by the date fixed.

2. It is the case of the Applicant that he was not well; for which, on receipt of the offer of appointment dated 13.08.¹⁹⁸⁴ 2004, he could not report to duty

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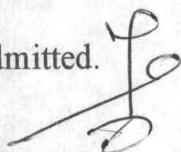
and, therefore, by filing successive representations, he sought extension of joining time and sought for his posting in any of the KVs located at Orissa.

3. According to the Applicant, since the Respondents paid deaf ear to his repeated representations, he has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

4. On scrutiny, when it was found by the Registry of this Tribunal that the OA contains several defects, opportunity to remove those defects were given on 21.02.2007. But for the reasons best known, the defects were removed only on 08.05.2007. After removal of defects, the OA was registered and placed before the Bench on 12.07.2007; when Learned Counsel for the Applicant took time for filing a petition seeking condonation of **delay of about 22 years**. No such petition for condonation of delay however, was filed till 03.03.2008; when MA No. 151 of 2008 was filed seeking condonation of delay on the ground that the Applicant could not exercise his right in time, due to his mental insanity.

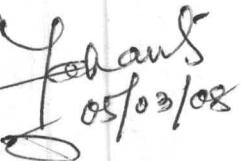
5. It has been disclosed by the Applicant that he was aged about 50 years (at the time of filing this OA) on 22.01.2007. No material has been placed on record (either in the OA or in the MA) substantiating his stand that he was all along sick. He has also placed no material to show that representations were, in fact sent by the Applicant and received by the Respondents at any point of time.

6. Law is well settled by now that delay or laches is one of the factors which is to be borne in mind by the Courts/Tribunal, when they exercise their discretionary powers to entertain such belated applications. It is the consistent view of the Hon'ble Apex Court that the Courts/Tribunal may refuse to invoke the powers to condone delay; if such negligence or omission (on the part of the Applicant to assert his right as taken in conjunction with the lapse of time and other circumstances), causes prejudice to the Opposite Parties. In the case of **Ratan Chandra Samanta and others v Union of India and others**, (reported in JT 1993 (3) SC 418) it has been held by the Apex Court of India that a person who sleeps over his rights not only loses his remedy but right as well. It is also settled that Making of repeated representations cannot be regarded as satisfactory explanation for condonation of the delay. Besides the above, according to the Applicant, he submitted representation seeking a posting within the Orissa. **When he was ready to take up the job in Orissa, the plea that he could not approach any authority due to his illness cannot be regarded as genuine ground so as to enable this Tribunal to exercise the discretionary power to condone the delay.** Illness being the only ground (of not taking up the employment, pursuant to the order under Annexure-A/1, dated 13.08.1984) which we find not satisfactory, this OA stands dismissed without being admitted.



7. Send copies of this order to the Applicant and the Respondents (along with the copies of the OA) in the address given in the OA and a free copy be supplied to the Advocate for the Applicant.


(C.R.MOHAPATRA)
MEMBER(ADMN.)


05/03/08
(M.R.MOHANTY)
VICE-CHAIRMAN

KNM/PS.

