

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. M.A.514 of 1998
M.A.515 of 1998
(D.A.251 of 1996)

Date of Order : 8.1.1999

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.

Hon'ble Mr. B.P. Singh, Administrative Member.

SRINARAYAN RAM

Vs.

UNION OF INDIA & ORS.

For the applicant : Mr.K. Sarkar, counsel.

For the respondents: Mr.B. Mukherjee, counsel.

ORDER

S.N. Mallick, V.C.

In M.A.No.514 of 1998, the applicant has prayed for restoration of D.A.251 of 1996, which was dismissed for default on 29.4.1998. In M.A.515 of 1998, the applicant has prayed for condonation of delay in the matter of filing the application for restoration.

2. It appears from the record that D.A.251 of 1996, after several adjournments, was listed for admission hearing on 29.4.1998. On that date, the advocate on record for the applicant did not appear and none appeared for the applicant, nor the applicant was personally present. The respondents were present through their ld.counsel, Mr.B. Mukherjee. The application was as such dismissed for default.

3. Now the instant miscellaneous applications have been filed on behalf of the applicant by another ld.advocate, Mr.K.Sarkar.

It is stated in the application for restoration that the applicant being ill could not contact his counsel and was unable to come on the last date of hearing because he was suffering from Jaundice. In the application for restoration, it is stated that the applicant was suffering from Hypertitice and Jaundice and was under the treatment of the District Hospital at Azamgarh (U.P.) and was cured of the illness w.e.f. 14.9.1998. In paragraph 5 of the application for condonation of delay, it is also stated that a fitness certificate dated 14.9.1998 is annexed. It is interesting to note that in paragraph 5 of the restoration application being M.A.514 of 1998, it is the case of the applicant that on the date of hearing i.e. 29.4.1998, his counsel was informed properly and he was also not present before this Tribunal and the counsel actually practising in the Calcutta High Court could not come on the date of hearing of the O.A. This is a curious stand taken by the applicant for the purpose of restoration of the O.A. which is far from convincing. Furthermore, it appears from the record that the applicant was first represented by one 1st.counsel, Mr.U.Rudra. Thereafter, on 9.9.1997, one Mr.S.P.Mukherjee filed vakalatnama on behalf of the applicant. The said counsel has not filed this restoration application and there is no reason why the aforesaid advocate, on record could not be present in Court when the O.A. was called on for hearing on 29.4.1998. It further appears from the cause title of the O.A. that the applicant's address given there is D/122, Tranching Ground Road, P.S.Garden Reach, Calcutta.

4. We have gone through the medical certificates. It appears from the annexures to the application for restoration that the sickness certificate is dated 29.4.1998 and the fitness certificate is dated 14.9.1998. All these documents do not support the contention of the applicant as made in paragraph 5 of M.A.515/1998.

All the medical papers produced by the applicant in support of his case are purported to have been issued from the District Hospital, Azamgarh (U.P.). There is no explanation why the applicant had been to Azamgarh ~~and~~ ^{to} fall ill there. Furthermore, the sickness certificate is dated 29.4.1998. The prescription is also dated 29.4.1998. The fitness certificate is, however, dated 14.9.1998. All these documents do not appear to be reliable in view of the above circumstances which do not explain the presence of the applicant at Azamgarh while his address in the O.A. has been given at Calcutta. Furthermore, there is no satisfactory reason why the advocate of record for the applicant in the O.A. did not appear before this Tribunal on 29.4.1998.

5. We do not find any substance in this application for restoration or in the application for condonation of delay. We are not convinced that the applicant was prevented by any sufficient cause to appear before this Tribunal on the date when O.A. 251 of 1996 was called on for hearing or any sufficient cause for condoning the delay in the matter of filing the restoration application.

6. Both the M.A.s are dismissed. No order is made as to costs.

J. M. Singh
(B.P. Singh)
Administrative Member

S. N. Mallick
(S. N. Mallick)
Vice-Chairman