

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO. 26/2003

Date of decision: this the 3rd day of February, 2004

Hon'ble Mr. J K Kaushik, Judicial Member
Hon'ble Mr. G R Patwardhan, Administrative Member

Vishnu Kumar Meena son of Shri Rajendra Kumar Meena, aged 33 years, R/o Village Bhuria-Leva, District Chittorgarh, Ex-GDS BPM, Jolar, District Chittorgarh.

.....Applicant

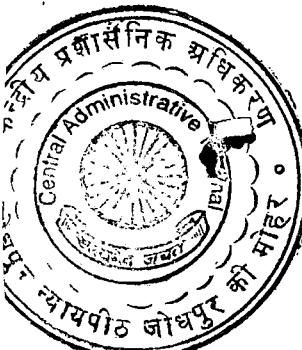
(By Advocate Mr. Vijay Mehta, for applicant)

versus

- (1) Union of India through the Secretary, Ministry of Communication, (Department of Post) Sanchar Bhawan, New Delhi.
- (2) Superintendent of Post Offices, Chittorgarh.
- (3) Director, Postal Services, Southern Region, Rajasthan, Ajmer.
- (4) Shri P.R. Rathore, Inspector of Post Offices (South), Chittorgarh.
- (5) Shri A.D. Shekh, Inspector of Post Offices (North), Chittorgarh.

.....Respondents.

(By Advocate Mr. B.L Bishnoi, for respondents No. 1 to 3)
 (None present for respondents No. 4 & 5)



ORDER

BY J K KAUSHIK, JUDICIAL MEMBER:

Shri Vishnu Kumar Meena has filed this Original Application assailing the complete disciplinary proceedings wherein an order dated 28.03.2002 (Annexure A/1) and order dated 10.01.2003

[Signature]

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(Annexure A/2) have been passed. The disciplinary authority has imposed the penalty of dismissal from service and the appeal has been rejected on the ground of limitation.

2. The brief facts of the case, necessary for resolving the controversy involved, are that the applicant was employed as GDS BPM, Jolar, District Chittorgarh (erstwhile EDBPM) in the year 2000. The applicant was put off duty and vide memo dated 11.09.2000 a charge-sheet came to be issued to him alleging that he did not make payment of money orders worth Rs. 200/- and 400/- dated 07.12.1999 and 26.12.1999 which were addressed to Smt. Koyari wife of Harji Meena and Shri Roopa son of shri Dev Ji Meghwal, respectively.

3. A detailed oral inquiry was conducted and the charges against him were held as proved. It has been averred by the applicant that he was not served with a copy of the inquiry report and he could not prefer the appeal in time and there was a delay of about 16 days in filing of the appeal. The Appellate Authority has rejected the appeal on the ground of delay without considering the request for condoning the delay for which a separate application dated 17.07.2002 (Annexure A/6) was filed.

4. The Original Application has been filed on multiple grounds mentioned in para 5 and its sub-paras which we refrain from narrating for the reason of the order we propose to pass in this application.

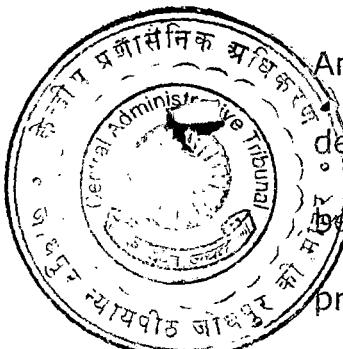


5. The respondents have filed a detailed counter reply to the Original Application and have contested the case. The facts and grounds have been generally denied. A short rejoinder has also been filed to the said reply.

6. With the consent of the learned counsel for the parties, the case was taken up for final disposal at the stage of admission. We have heard the learned counsel for the parties and have carefully perused the records of this case.

7. Both the learned counsel for the parties have reiterated their pleadings. The learned counsel for the applicant has drawn our attention to Annexure A/2, which is the order, passed by the Appellate Authority wherein it has been indicated that the appeal of the applicant has been rejected only on the ground of delay. He had made us to travel with the application which was filed along with appeal narrating the grounds for condonation of the delay which is put forward before the Appellate Authority vide Annexure A/6. He has submitted that there was a very short delay of about 16 days preferring the appeal but the appeal has been rejected and the case of the applicant has been gravely prejudiced.

8. Per contra, the learned counsel for the respondents has elaborately argued and has submitted that the applicant did not at all cooperate with the inquiry and the inquiry have to be conducted even ex-parte. He has submitted that the Appellate



Authority has considered the complete facts and rejected the appeal in as much as no ground was made out for condoning the delay and deciding the appeal on merits.

9. We have considered the rival submission only in regard to the appellate order, we find from the perusal of the application at Annexure A/6 wherein a request was made for condoning the delay that it was a very short delay and sufficient grounds have been adduced which the appellate order ought to have been taken into consideration. From the perusal of the appellate order there is not even a whisper regarding consideration of grounds for condonation of delay and the same have not at all been considered. The authorities are required to have a liberal approach in condoning the delay so that justice can be imparted. In respect of our view, we are supported with a judgement which said to be a direction on this issue by the Apex Court in case of

Collector, Land Acquisition, Anantnag and another vs. Mst.

Katiji and others (AIR 1987 SC page 1353) wherein a desirability has been shown that the cases should be decided on merits. In this view of the matter, we are of the firm opinion that the appellate order deserves to be rejected since there was a short delay of about 16 days, which ought to have been condoned and appeal, decided on merits.

10. In the premises, the Original Application is partly allowed. The impugned order dated 10.01.2003 (Annexure A/2) is hereby quashed. The Appellate Authority is directed to treat the appeal

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in time and decide the same on merits as per Rule 27 (2) of CCS (CCA) Rules 1965 after giving an opportunity of hearing to the applicant, within a period of three months from the date of issue of a copy of this order. Result of appeal shall regulate consequential benefits. In case, the applicant is aggrieved by any adverse order if passed on appeal he shall be at liberty to file a fresh Original Application and all the grounds, which have been submitted in this Original Application, shall be available to him. There shall be no order as to costs.



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(G.R. Patwardhan)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

Kumawat

APR 10
P.T.O.
W. J. S.

Fault
~~10/10/13~~
21/10/13

parts II and III destroyed
in my presence on 23/10/13
under the supervision of
Section Officer (1) S. P. M.
order dated 18/10/13
P. R. Shrivastava 23.10.2013
Station Officer (Record)