

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

ORIGINAL APPLICATION NO. 124/2003 and
MISC. APPLICATION NO. 91/2003

Date of decision: 23.07.2004

Hon'ble Mr. J. K. Kaushik, Judicial Member

Latoori Singh s/o Shri Sombeer Singh aged about 43 years, resident of Aakashwani Colony, Lal Maidan, Paota C Road, Jodhpur at present employed on the post of Sr. Technician, All India Radio, Jodhpur.

: Applicant.

(By Advocate Mr.K.K. Maharshi: counsel for the applicant)

Versus

1. Union of India through Secretary, Ministry of Information and Broadcasting, Sanchar Bhawan, New Delhi.
2. Director General, All India Radio, Aakashwani Bhawan, Sansad Marg, New Delhi.
3. Chief Engineer (North Zone) All India Radio & Doordarshan, Jamnagar House, Shahjahan Road, New Delhi.
4. R.S. Tyagi, station Engineer, All India Radio, Bikaner (Rajasthan)
5. Administrative Officer, All India Radio, Bikaner (Rajasthan)

: Respondents.

(By Advocate Mr.Kuldeep Mathur: Counsel for the respondents)
.....Respondents.

ORDER

BY J. K. KAUSHIK, JUDICIAL MEMBER:

Shri Latoor Singh has inter alia assailed the order dated 9.9.1998/23.9.1998 Annexure A/1 though which he has been



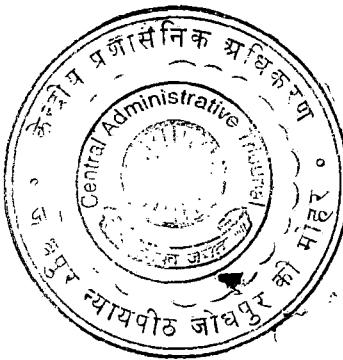
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communicated the adverse ACRs and has sought for its quashment along with all consequential benefits.

2. With the consent of the learned counsel for both the parties, I have heard the arguments for final disposal at the admission stage keeping in view the urgency of the matter and have carefully considered the pleadings and records of the same.

3. Filtering out the unnecessary details, the indubitable material facts, as deduced from the pleadings of the parties are that the applicant was initially appointed as Helper and subsequently he got promotion of the post of Senior Technician with effect from 3.1.91. In the year 1996, he was transferred at Bikaner where he remained upto 8.12.98. During his stay at Bikaner he was faced with some unsavory situation and had to make complaint to the higher authorities. He was thereafter issued with the impugned order through which he has been communicated with 14 adverse entries for the period of 28.6.97 to 31.3.98 as narrated at page 12 and 13 of paper book.

4. As regards the variances, the applicant has averred that he made representation against the adverse ACR to the competent authority but the same has not been considered so far. On the other hand the respondents have averred that certain complaints were made by the applicant in some other matter, which also contained reference to adverse ACRs in one of its para, but no specific representation as contemplated in the rules was ever preferred against the adverse ACR and therefore question of



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disposing of the same did not arise. However, my attention was drawn to the averments that the complaint was addressed to Chief Engineer and the details were furnished to the said authority. A plea of limitation has also been taken regarding maintainability of the very O A. The grounds enunciated in the Original Application have been generally denied by the respondents.

5. The learned counsel for the parties have reiterated the facts and grounds narrated in their respective pleadings as noticed above. However, the learned counsel has submitted that the Original Application is ex facie time barred and no good and sufficient ground have been reflected in the Misc Application filed for seeking condonation of delay. There is no dispute as regard the factual dispute. It is true that the applicant has not submitted any representation against the adverse ACR to the competent authority.

6. I consider it apposite to deal with the preliminary objection regarding the limitation. The cause of action has arisen to the applicant on dated 23.9.98 when annexure A/1 came to be issued. Admittedly, the applicant did not make any representation against the adverse ACR, thus as per the law of limitation prescribed in section 21 of the AT Act 1985, this Original Application ought to have been filed by 23.9.1999. But the same has been filed only on dated 22.8.2003 thus there is a delay of about five years in filing of the same. As regards the



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reasons for the delay, vague reasons have been put forth. There was no representation against the ACRs and theory of waiting for decision is not understood. I have not been able to persuade regarding the reasons for condonation of delay and am of considered opinion that no satisfactory explanation has been given regarding the delay. Therefore, the delay cannot be condoned and the miscellaneous application for condonation of delay stands rejected.

7. The law position on this is stands concluded by the Hon'ble Supreme Court in the case of **Ramesh Chand Sharma etc. vs. Udhamp Singh Kamal and others**, 2000 (1) A.T.J. 178, wherein their Lordships were dealing with the case of promotion. In that case the Original Application was entertained on merits by the Tribunal despite the fact that there was no application for condonation of delay. Their Lordships of the Supreme Court turned down the judgement of the Tribunal holding that until and unless there is an application for condonation of delay and until the delay is condoned, the Tribunal should not examine the merits of the case. Applying the statement of law laid down by the Hon'ble Supreme Court in the instant case, I am left with no option except to reject this Original Application on the ground of limitation, since the same is barred by limitation and there has been no good and sufficient reasons for condoning the delay in as much as the Misc Application for the same has been rejected as indicated above. If that were so, I do not think there is any necessity to examine this case on merits.



8. In the circumspect of the aforesaid discussion, I come to an inescapable conclusion that the Original Application is hopelessly time barred with no good and sufficient reasons for condoning the delay and the stands dismissed accordingly without examining the merits of the case. However, the parties are directed to bear their respective costs.



J K Kaushik

(J K Kaushik)

Judicial Member

Jsv.