

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

**Misc. Application No.58/2004
In
Original Application No. 143/2004**

Date of decision: 21.7.2010

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Mr. V. K.Kapoor, Administrative Member.

Yogesh Kumar, S/o shri Niranjan Das, aged about 36, years, resident of 2-kha5 Madhuban Housing Board, Basni, Jodhpur (Rajasthan) last employed on the post of Salesman-cum-Clerk in the office of Air Force Canteen, Air Force Station, Jodhpur. (Rajasthan).

: Applicant.

Rep. By Mr. J.K. Mishra: Counsel for the applicant.

VERSUS

1. Union of India through the Secretary to Government of India, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The air Officer Commanding, Air Force Station, Jodhpur. (Rajasthan)
3. The chief Administrative Officer, Air Force Station, Jodhpur (Rajasthan).

Rep. By Mr. M. Godara, proxy counsel for Mr Vinit Mathur : Counsel for the respondents.

ORDER

Per Mr. Justice S.M. M. Alam, Judicial Member.

This Misc. Application has been filed under Section 21. of the Administrative Tribunals, Act, 1985, for condonation of delay in filing O.A. NO. 143/2004.

2. Heard the learned counsel of the applicant as well as the learned counsel of the respondents. We have perused the M.A.

and the O.A bearing No. 143/2004 along with its annexures. It appears that the original application has been preferred by the applicant Yogesh Kumar, challenging the order dated 08.11.1996, whereby he has been removed from service. The said original application was filed in the year 2004, meaning thereby that the same has been preferred after lapse of about 8 years period since the date on which the order under challenge was passed.

3. Sec. 21 of the Administrative Tribunals Act, 1985, deals with limitation. For the sake of convenience, the relevant portion of Sec. 21 is reproduced below:

21. Limitation

(1) A Tribunal shall not admit an application –

- (a) in a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

4. From the reading of the above it is clear that the Tribunal can entertain an application within maximum period of 1 ½ years since the date of passing of the impugned order. However, clause (3) of Sec. 21 says that notwithstanding anything contained in sub-section (1) and (2) an application may be admitted after the period of one year specified in clause (a) or Clause (b) of sub-section (1) or , as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

5. Admittedly, this application has been filed after a lapse of about 8 years period since the date of impugned order was passed. Therefore, the applicant has to satisfy the Tribunal as to whether, the applicant has got sufficient cause for not making the application within the prescribed period.

6. It is cardinal principle of law that delay of each day must be explained satisfactorily by the applicant, if an application is made for condonation of delay. From a perusal of the application it appears that since the appeal preferred by the applicant against the order of removal was not finalized by the authority concerned and as such he has not preferred the application in time. The second ground taken by the applicant is that in the year 1998, his marriage was performed and after sometime, he was implicated in a criminal case by his in-laws. However, the said case was withdrawn on 02.07.2003 and during that time he was mentally upset and so he could not file the O.A in time.

7. We are of the view, that both the grounds are not sufficient for condoning the delay of about eight years. Moreover, Sec. 21 (1) (b) says that in a case where an appeal or representation such as is mentioned in clause (b) of sub section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, an application under Sec. 19 of the A.T. Act 1985, can be filed within one year from the

date of expiry of the said period of six months. Admittedly this application has been filed after about 8 years i.e. much after the expiry of the period prescribed under Sec. 21 (1) (a) and 21 (1) (b) for which no satisfactory grounds have been made in this application.

8. As regards, the implication of the applicant in the criminal case by his in laws is concerned, it appears that this was a subsequent event, which had occurred much after the lapse of prescribed period for filing the O.A.

9. In such view of the matter, we are of the opinion that this Misc. application for condonation of delay in the filing^g the O.A is hopelessly barred by limitation and the same cannot be entertained. Accordingly, this M.A for condonation of delay is hereby dismissed, as a result of which the O.A No. 143/2004 also stands dismissed. No order as to costs.


[V.K. Kapoor]
Administrative Member


[Justice S.M.M. Alam]
Judicial Member.

jsv

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