

के प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निःशुल्क प्र.

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Misc.Application No.55/2005
in
Original Application No. 113/2005

Date of decision : 23.10.2007

Hon'ble Mr.Jusitce A.K. Yog, Judicial Member.

Hon'ble Mr. Tarsem Lal, Administrative Member.

Bankat Lal, S/o Shri Pratap Narayan Ji aged about 55 years, resident of Village & Post Kurna, District - Pali (Raj.) last employed on the post of EDBPM under Superintendent of Post Offices, Pali (Raj.)

: applicant.

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

VERSUS

1. Union of India through the Secretary to Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. Post Master General, Rajasthan Western Region, Jodhpur (Rajasthan)
3. The Superintendent of Post Offices, Pali Division, Pali Marwar (Rajasthan)

∴ Respondents.

Rep. By Mr. Mahendra Godara Advocate holding brief of Mr. Vinit Mathur : Counsel for the respondents.

ORDER

Per Mr. Justice A.K. Yogi, Judicial Member.

Heard the learned counsel for the parties.

2. Misc. Application No. 55/2005, has been filed by the applicant in O.A No. 113/2005, praying for condonation of delay in filing O.A No. 113/2005 on the pleadings inter alia amongst others, that the applicant was employee of Postal Department and posted at District Pali; he was charge sheeted and after disciplinary inquiry removed from service vide order dated 29.12.1995; his review⁰⁴

25

application was rejected vide order dated 09.03.1998 (Annex. A/2 to the O.A); he approached one Mr. Bhushan Singh Charan, Advocate with instructions to file O.A in the Tribunal against order of removal well within time, i.e. in the year 1999; he had paid fees to the advocate; the Counsel did not file O.A and kept him in dark and informing that the O.A has been filed; the applicant has placed reliance upon certain letters written by said counsel (annex. A/4 to A/8 to the O.A. No. 113/2005); a complaint was filed before the Bar Council of Rajasthan against the said Advocate (Annex. A/9 to the O.A.); the Bar Counsel has finalized the case and he has applied for 'certified copy' of the decision but the same has not been given to him; Mr. B.S.Charan has not returned all the documents handed over to him by the applicant; thereupon, he collected certain papers in the month of September 2004; arranged for money to file present O.A and lastly the present O.A has been filed without further delay.



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3. The respondents have filed reply primarily contesting the aforesaid contention of the applicant and it is objected that the applicant has not properly explained the delay for his long silence for years.

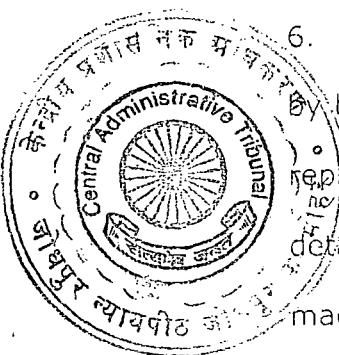
4. We have perused the explanation for condoning the delay. The explanation furnished in para 2 to 5 of the M.A. are cryptic in as much as sufficient particulars for the delay has not been disclosed. The applicant has not disclosed as to whether the counsel (against whom) he made complaint to the Bar Council of Rajasthan, has been convicted or acquitted. Though he has applied

2/11

for a certified copy of the decision of the Bar Council of Rajasthan, but date of applying for certified copy has not been disclosed. It is difficult to believe that the applicant is not aware as to whether the said counsel has been convicted or acquitted and there is no mention why said fact is not disclosed. Even as on date applicant is unable to bring said order of the Bar Council on record.

5. Apart from this, a perusal of letter dated 22.02.2003, allegedly written by Mr. B.S. Charan (Annex. A/7 to the O.A.) shows that said Counsel instructed him to contact vide his letter dated 14.01.2003. The advocate through said letter informed that his O.A in Tribunal has been decided by CAT which was conveyed to him vide letter dated 14.01.2003 and also through his representative one Mahendra Singh and appeal can be filed before High Court for which applicant had to discharge his obligation. Since the applicant has annexed a copy of this letter, it cannot be said that the applicant was not receiving information from the said counsel. Considering the facts mentioned in the letter dated 22.02.2003 and in the absence of necessary pleading in this regard, it is natural to doubt 'the conduct' of the applicant in as much applicant has no where stated that after receipt of letter dated 22.02.2003 what steps were taken by him and whether he had made inquiry of any kind regarding his case in CAT/ High Court or otherwise did he endeavored to trace particulars of OA said to have been filed by Shri Charan Advocate in his letter dated 22.02.2003. If it is correct that Mr. B.S. Charan, Advocate had filed O.A in the past and the same stood decided against the applicant

as mentioned in aforesaid letter dated 22.02.2003, then the present O.A is not maintainable in law. In absence of requisite details, we are not inclined to entertain the explanation furnished by the applicant for seeking condonation of delay. Moreover, perusal of the complaint made to the Bar Council of Rajasthan (Annex. A/9) shows that the applicant had shifted his residence from Kurna Village, Pali and District Pali (Rajasthan) to Hyderabad in Andhra Pradesh which compels one to infer that the applicant himself did not pursue the case as now alleged by him. His explanation to seek condonation of delay is an after thought.



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CHECKED** 6. The applicant has not chosen to file copy of any letter written by him to the said Advocate Mr. B.S. Charan or the dates when he replied to the said letters of his counsel. He has also not given details about 'financial constraints' to justify the allegation that he made arrangements for money for filing the present O.A. He has

not disclosed as what is his occupation- particularly what for he is at Hyderabad.

7. In the aforesaid circumstances, we hold that the applicant has not approached this Tribunal with clean hands and no case for condonation of delay in filing the O.A has been made out. Misc. Application for condoning the delay is hereby rejected.

Sd/-
(TAREEM LAL)
ADMN. MEMBER

Jsv.

Sd/-
(AJAY KUMAR YOG.)
JUDL. MEMBER

CERTIFIED TRUE COPY
Dated 26-6-2007

कानूनी अधिकारी (न्याय.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकार न्यायालय
Central Administrative Tribunal
जोधपुर न्यायालय, जोधपुर
Jodhpur Bench Jodhpur