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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR.**

Original Application No. 16/2005
with
Misc. Application No. 03/2005

DATE OF ORDER: 15.09.2006

CORAM

**HON'BLE MR. J K KAUSHIK, JUDICIAL MEMBER.
HON'BLE MR. J.P. SHUKLA, ADMINISTRATIVE MEMBER.**

Sh. Goverdhanlal Gayri son of Sh. Ramlal Gayri, aged about 31 years, resident of Semal, Tehsil Nathdwara, District Rajsamand.

Off. Address: - Goverdhanlal EDBPM, Post Office Semal, Tehsil Nathdwara, District Rajsamand.

...Applicant.

V E R S U S

1. Union of India through Secretary, Ministry of Communication, Postal Department, Dak Bhavan, New Delhi.
2. The Postmaster General, Main Post Office, Jaipur Road, Ajmer (Rajasthan).
3. The Additional Superintendent of Post, Chetak Circle, Udaipur.
4. Inspector, Postal Department, Mandir Road, Nathdwara.

...Respondents.

Mr. S. Saruparia, counsel for the applicant.

Mr. M. Godara, proxy counsel for

Mr. Vinit Mathur, counsel for the respondents.

ORDER

(Per Hon'ble Mr. J. K. Kaushik, Judicial Member)

Shri Goverdhanlal Gayri has assailed the order dated 06.01.2003 (Annexure A/1) vide which his services were ordered to be dispensed with with immediate effect.

2. We have heard learned counsel for both the parties at a considerable length in piecemeal and today the arguments have been concluded. We have also earnestly considered the pleadings as well as the records of this case.



3. The brief facts of the case are that the applicant was given the charge of the EDMC post in post office situated at village Simal, Tehsil Nathdwara, District Rajsamand on 06.06.2001. He continued to discharge the duties for the same and subsequently, an order dated 06.01.2003 came to be passed by which the persons who had been engaged without the approval of the competent authority, were ordered to be terminated from service with immediate effect. The applicant approached the Hon'ble High Court of Rajasthan at Jodhpur vide S.B. Civil Writ Petition No. 357/2003 wherein an order came to be passed on 19.09.2003 and the said writ petition was dismissed as withdrawn with liberty to file an original application before the Central Administrative Tribunal within a period of ten days. The applicant filed this Original Application before this Bench of the Tribunal on 07.01.2005 and a Misc. Application No. 03/2005 for condonation of delay has been separately filed. It has been averred in the Misc. Application that the applicant has been regularly working with the non-applicants/department and the authorities wanted to terminate the services of the applicant in pursuance with the order dated 06.01.2003 and therefore the Original Application is within limitation.

4. As regards the variances in facts, the respondents have contested the case and they have filed separate replies in respect of Original Application as well as Misc. Application for condonation of delay. It has been averred that the services of the applicant in particular and other number of employees had to be dispensed with since the charges of the respective posts were given to them without any approval of the competent authority. In reply to the application for condonation of delay, it has been submitted that the Original Application is hopelessly time barred and the reasons given for condonation of delay are afterthought and there is no satisfactory explanation thereof, therefore, the Original Application is to be dismissed.



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5. Learned counsel for the applicant submitted that he may be permitted to withdraw this Original Application with liberty to file fresh one in the same matter. This proposition and request fetched serious objection from the side of the respondents and it was insisted that the respondents would have no objection to the extent that the applicant may be permitted to withdraw the Original Application without any rider. Both the learned counsel for the parties have reiterated the facts and grounds mentioned in their respective pleadings.

6. We have considered the rival submissions and as far as factual aspect of the matter is concerned, there is hardly any dispute. Before advertiring to the merits of this case, we consider it appropriate to deal with the Misc. Application for condonation of delay. The admitted position of the matter is that the impugned order came to be issued on 06.01.2003 and as per Section 21 of the Administrative Tribunals Act, 1985, the Original Application ought to have been filed by 05.01.2004. However, the matter had been agitated before the Hon'ble High Court of Rajasthan at Jodhpur and there the S.B. Civil Writ Petition No. 357/2003 was dismissed as withdrawn with liberty to file an original application before the Central Administrative Tribunal within a specified period of ten days from 19.09.2003, meaning thereby that Original Application was required to be filed before 29.09.2003 but the same has been filed only on 07.01.2005. Thus, there is a delay of about one year and three months. The explanation forthcoming is amazing and deceptive. The application for condonation of delay does not specify that there has been delay in filing the Original Application and there is no prayer even for condoning the delay. The reasons adduced are the applicant was continued in service despite the order of termination and therefore the Original Application is within limitation. It is really surprising that such reasons could be said to be good and sufficient reason for condoning the delay. We are not at all satisfied that there is



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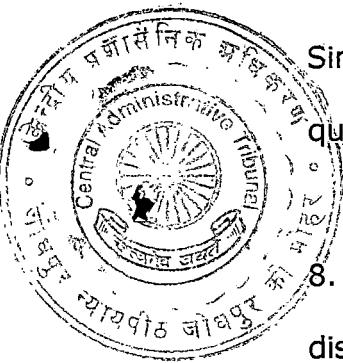
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any satisfactory explanation or any good and sufficient reason for condoning the delay in filing of this OA and the Misc. Application No. 03/2005 is hereby rejected.

7. Keeping in view the verdict of the Hon'ble Apex Court in the case of **Ramesh Chandra Sharma vs. Udhamp Singh Kamal and Others ATJ 2000(1) SC 178**, that until the hurdle of limitation is crossed, the Tribunal shall have no power to adjudicate upon the merits of any case.

Since in this case the hurdle of the delay could not be overcome, the question of adjudicating the case on merits would not arise.

8. In the premises, the Original Application shall have to be dismissed being not within the limitation without going into the merits and we do order accordingly but without no order as to costs. The interim order already issued in this case stands vacated forthwith.


JP Shukla
Administrative Member


(J K Kaushik)
Judicial Member

nlk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

ORDER SHEET

Misc. APPLICATION NO 3 OF 2005 in ca 16/05

Applicant (s) Parerdhjan Ltd

Respondent (s) U.O.28

Advocate for Mr S. Saruparia
Applicant (s)

Advocate for
Respondents (s)

Notes Of the Registry	Orders Of The Tribunal
	<p>This is a misc application filed by the Applicant u/s 21 of ACT 1985, for condonation of delay in filing the OA. 3/2005, It is a DB Case and pertains the jurisdiction of Jodhpur Bench.</p> <p>Upon examining it has no defect.</p> <p><u>SO (S) ✓</u></p> <p><u>18/1/05</u></p>
	<p><u>11/01/05</u></p> <p>Mr. S. Saruparia, Adv. Counsel for the Applicant.</p> <p>Register put up in Court for admission on <u>11-01-2005</u> along with OA.</p> <p><u>REGISTRAR</u> <u>C.A.T. JODHPUR</u></p> <p><u>11/01/05</u></p> <p>Mr. S. Saruparia, Counsel for applicant Heard the Learned Counsel for applicant. Issue Notice 'Dasti' to the respondents returnable on <u>24/01/05</u>, list the case on <u>24/01/05</u> for admission.</p> <p><u>M. K. MISRA</u> Adv. Member</p> <p><u>J. R. KABSHIK</u> Jud. Member</p> <p><i>Compliance made in OA</i></p>

24.01.2005

Mr. S. Saruparia, counsel for the applicant.
Mr. Vinit Mathur, counsel for the respondents.

List on 21.02.2005 for admission alongwith its O.A. In the meanwhile, reply may be filed.

(M.K.Misra)
Adm. Member

21.02.05

None present for applicant.
Mr. M. Godarao, Prox. Counsel for
Mr. Vinit Mathur, for respondents.

Mr. Vinit Mathur, for respondents
Put up for admission on 07/04/05

Alongwith its O.A.

G. R. PATWARDHAN
Adm. Member

KULDIP SINGH
Vice Chairman

07.04.05

Mr. P. Choudhary, Counsel for applicant
Mr. Vinit Mathur, Counsel for respondents

Put up for admission on

11/05/05 alongwith its O.A.

G. R. PATWARDHAN
Adm. Member

J. R. KAUSHIK
Judi. Member

11/05/05
None present for the applicant as the
Members of the CJI Bar are on strike.
None present for respondents.

List the case on 4/7/05

for admission alongwith its O.A.

G. R. PATWARDHAN
Adm. Member

KULDIP SINGH
Vice Chairman

Reply not
filed

Reply not
filed

Reply not
filed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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Misc. APPLICATION NO 03 OF 2005 in dt 16/05.

Applicant (s)

Respondent (s)

Advocate for
Applicant (s)

Advocate for
Respondents (s)

Notes Of the Registry

Orders Of The Tribunal

04.07.05

On account of the sad demise of
Hon'ble former Chief Justice of Rajasthan
High Court, Shri P.K. Bannerjee, the
advocates are not appearing in the Court.
As such the case may be listed for

admission on 03-08-05.

G. R. PATWARDHAN
Adm. Member

J. K. KAUSHIK
Jad. Member

03/08/05

None present for applicant.
Mr. M. Reddy, proxy counsel for
Mr. Vinit Mehta, counsel for resps.

LIST the case on 05/08/05

for admission alongwith its ~~100~~

G. R. PATWARDHAN
Adm. Member

J. K. KAUSHIK
Jad. Member

Reply
filed

05/08/2005 *100*

None present for the applicant.
Mr. M. Godara, proxy counsel for respondents.
Mr. Vinit Mathur, counsel for respondents.

List the case on 07/09/2005

for admission alongwith its OA.

SPC
G. R. PATWARDHAN
Adm. Member

J. K. KAUSHIK
Judi. Member

07-09-05

Mr. S. Saruparia, Counsel for applicant.
Mr. V. Mathur, Counsel for respondents.

List the case on 29.09.05

for admission alongwith its OA.

J. K. KAUSHIK
Judi. Member

29-09-2005

Mr. S. Saruparia, Counsel for applicant.
Mr. M. Godara, proxy counsel for respondents.
Mr. Vinit Mathur, counsel for respondents.

List the case on 17-11-2005
alongwith its OA.

J. K. KAUSHIK
Judi. Member

17-11-05

Mr. S. Saruparia, Counsel for applicant.
Mr. V. Mathur, Counsel for respondents.

List the case on 16-12-05

alongwith its OA.

J. K. KAUSHIK
Judi. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL I

JODHPUR BENCH, JODHPUR

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ORDER SHEET

MISC. APPLICATION NO. 3 OF 2005 IN O.A. 16/05

Applicant(s)

Respondent(s)

Advocate for
Applicant(s)

Advocate for
Respondent(s)

Notes of the Registry

Orders of the Tribunal

16.12.05

Mr. S. Sarupuria, Counsel for applicant
Mr. V. Mathur, Counsel for respondent
List the case on 02.02.06 for
admission along with its O.A. Dr.

J. K. KAUSHIK
Jud. Member

02.02.06

None present for applicant
Mr. M. Godara, Proxy Counsel for
Mr. V. Mathur, for respondent
List the case on 20.03.06
for admission along with its O.A. Dr.

J. K. KAUSHIK
Jud. Member

20.03.06

Mr. S. Sarupuria, Counsel to applicant
Mr. Vineet Mathur, Counsel to respondent
List along with its O.A.
for admission on 31.03.06. Dr.

J. K. KAUSHIK
Jud. Member

03/05/06

Mr. S. Saruparia, counsel for applicant.

Mr. M. Lodara, proxy counsel for

Mr. Vinit Mathur, counsel for respondents

List the case on 30/06/06

for admission along with its O.A.

JK
J. K. KAUSHIK

Jud. Member

M.A. No. 03/2005 in O.A. No. 16/2005

Date of order: 30.06.2006

None is present for the parties.

List the case on 19.07.2006 for admission along with its O.A.

JK
[Kuldeep Singh]
Vice Chairman

M.A. No. 03/2005 in O.A. No. 16/2005

Date of order: 19.07.2006

Mr. S. Saruparia, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

List the case on 13.09.2006 for admission along with its
O.A.

JK
(J K Kaushik)
Judicial Member

Mr. S. Saruparia, counsel to applicant.

Mr. M. Lodara, ad. ladv. holder to

Mr. Vinit Mathur to respondents.

List along with the O.A
to admission on 15/09/06.

JK
S. P. SHUKLA
Adm. Member

JK
J. K. KAUSHIK
Jud. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

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APPLICATION NO.....OF

Applicant(s)	Respondent(s)
Advocate for Applicant(s)	Advocate for Respondent(s)
Notes of the Registry	Orders of the Tribunal
	<p>MA No. 03/2005 in O.A. No. 16/2005 Date of order: 15.09.2006</p> <p>Mr. S. Saruparia, counsel for the applicant. Mr. M. Godara, proxy counsel for Mr. Vinit Mathur, counsel for the respondents.</p> <p>Heard.</p> <p>The Misc. Application stands dismissed, in view of the order passed, today, in OA No. 16/2005.</p> <p><i>Copy sent to P. S. Shukla</i></p> <p><i>JP Shukla</i> (J P Shukla) Administrative Member</p> <p><i>JK</i> (JK Kaushik) Judicial Member</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

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ORDER SHEET

Misc APPLICATION NO 101 OF 05 in O S 16/2005

Applicant(s) Forsythians Ltd

Respondent(s) U O 280

Advocate for

Applicant(s) Mr. S. Sarupuria

Advocate for

Respondents(s)

Notes Of the Registry	Orders Of The Tribunal
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This is a misc application filed by the petitioner u/s 22 of RTI Act, 1985, for Recalling of the order of 05/08/2005 passed in O.D.N.O 16/2005. It is a DR case & pertains to the jurisdiction of the Jodhpur Bench.

Copy of misc application already given to the opposite counsel Mr. Vinod Mehta or Dehracode.

On scrutiny it has no defect.

50(1)

AK
9/8/2005

10/02/2005

Mr. S. Sarupuria Dehracode Counsel for
the Applicant.

Register Pet. up in Court for
admission on 10/08/2005, alongwith OA, as
per the letter to the court slip.

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REGISTRAR
C.A.T. JODHPUR

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

ORDER SHEET

APPLICATION NO. _____ OF

Applicant (s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondents (s)

Notes Of the Registry	Orders Of The Tribunal
<p>2) COPY G 16/18</p> <p>Copy received Bagnu 22/8/05</p>	<p>M.A. No. 101 of 2005 in OA No. 16.2003 <u>10.08.2005</u> Mr. S.Saruparia, Counsel for the applicant, Mr. Vinit Mathur, Counsel for the respondents.</p> <p>M.A. No. 101/2005 has been filed for recalling the order dt. 05.08.2005 whereby the interim order granted earlier had been vacated.</p> <p>2. The learned counsel for the applicant submits that due to the clerical error, above said date was not posted in the office diary maintained in his office and therefore he could not appear before this Bench of the Tribunal. We find that the application is not happily worded. However, since the proposition of the rule of law is that litigants should not be made to suffer on account of any fault on the part of their counsel, so we also follow the same and leave the applicant with a note of caution to be careful in future. We have confirmed on the other side that the position of the applicant has not so far been changed. In this view of the matter, the order dt. 11.01.05 is directed to be continue till the next date. M.A. Stands disposed of accordingly. Let the O.A be listed on 07.09.2005.</p> <p><i>[Signature]</i> (G.R. Patwardhan) Administrative Member</p> <p><i>[Signature]</i> (J.K. Kaushik) Judicial Member</p>

Part II and III destroyed
in my presence on 11/4/14
under the supervision of
section officer (J) as per
order dated 31/10/14

Section officer (Record)