

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**Original Application No. 275/2007**

**Date of decision : 06.02.2008**

**Hon'ble Mr.N.D. Raghavan, Vice Chairman.**

B.A. Khan, S/o Shri Mohd Hanif, aged about 48 years resident of 385/1 Old Lancer Line, Banar Road, Jodhpur, at present employed on the post of L.D.C. in the office of Garrison Engineer ( Army) Utility Multan Line, Jodhpur.

: Applicant.

None present for the applicant.

**Versus**

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhavan, New Delhi.
2. Chief Engineer, Southern Command, Pune.
3. Headquarters Chief Engineer, Bhopal Zone, Bhopal
4. Commander Works Engineer (Army), Multan Line, Jodhpur.
5. Garrison Engineer (Army) Utility, Multan Line, Jodhpur.

: Respondents.

Rep. By Mr. Kuldeep Mathur: Counsel for the respondents.

**ORDER**

**Per Mr. N.D. Raghavan, Vice Chairman.**

It is seen from the cause list that Mr. B. Khan, is the learned Counsel for the applicant. The cause list also reflects "rejoinder not filed". However, Mr. A.K. Kaushik, proxy counsel submits that his name may be entered besides adding that he



prays for adjournment for the reason that rejoinder has not yet been filed and also Mr. B. Khan is out of station. On a perusal of the record, it is seen that on many earlier occasions it is represented on behalf of Mr. B. Khan that he is out of station, and whenever Mr. B Khan was present he prayed for adjournment of the matter.

2. On the other hand, Mr. Kuldeep Mathur, learned counsel for respondents 1 to 5, is present and submitted at the out set that this O.A deserves to be dismissed for the reason that this O.A is time barred, which could be very well seen from the reply filed by the respondents for the reason that the transfer order is passed on 15.04.2006, against which this O.A has been filed and if the applicant is really aggrieved he ought to have filed this O.A within one year from the date of such order i.e. by 15.04.2007, while April 2008 is fast approaching. Hence he contended that the present O.A is obviously time barred. He further submitted that in order to circumvent the period of limitation, the applicant has chosen to challenge the movement order dated 11.10.2007. The learned counsel also stated that transfer order is the main order by which the cause of action had arisen to the applicant and the movement order is only a consequential order which does not give any fresh cause of action for him to file this O.A, yet the applicant has chosen to challenge the same in order to get over the period of limitation.





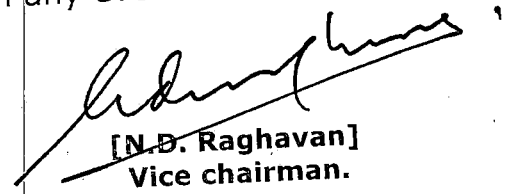
3. The learned counsel for the respondents heavily relying on the reply, added that even assuming, though not admitting, that the applicant has very strong case, yet this O.A deserves to be dismissed as infructuous for the reason that he has been reliably informed that the applicant has joined the station to which he has been transferred, which is under challenge in this O.A. The learned counsel submitted that he would file an affidavit to this effect today itself with the registry, which he did and consequently placed before me.

4. Heard the learned counsel for the respondents and carefully perused the reply filed on behalf of the respondents 1 to 5. After doing so, I am thoroughly convinced with all the submissions made by the learned counsel for the respondents. As rightly submitted by him, not only this O.A is time barred and without any petition for condonation of delay and without even the presence of the counsel, apart from the fact of having no merit also in this O.A since no malafide is attributed against the respondents, no violation of any statutory order is pointed out, no incompetency on the authority who passed the order impugned is indicated and no issuance of transfer order on out of turn basis is also demonstrated, <sup>hence</sup> ~~at~~ least this O.A has to be rejected as infructuous since the applicant has joined the transferred place of posting on 12.11.2007, as seen from the additional affidavit dated 06.02.2008



and copy of departure report of the applicant dated 01.11.2007 filed today by the respondents counsel resulting in nothing remaining in this O.A to be adjudicated.

5. In the result, this Q.A is dismissed in any event. No costs.

  
[N.D. Raghavan]  
Vice chairman.

.jsv.

21/10

Per - K - meeting  
A.S.

3/2/2

**Action officer (Record)**