

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**ORIGINAL APPLICATION NO.135/2010  
WITH  
MISC. APPLICATION NO.80/2010**

**Date of decision:29.04.2011**

**Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.  
Hon'ble Mr. Sudhir Kumar Administrative Member.**

Pankaj Kumar Barodiya S/o Shri Baldev Barodiya, by caste Teli, aged about 29 years, R/o Teliwara, Kandharwadi, Banswara.

Mr. Kuldeep Mathur &  
Mr. K.D.S. Charan - counsel for the applicant.

**Versus**

1. The Commissioner, Navodaya Vidhyalaya Samiti, Head Office, A-28 Kailash Colony, New Delhi.
2. The Deputy Commissioner, Navodaya Vidhyalaya Samiti, Regional Office at 18 Sangram Colony, C-Scheme, Jaipur.

Mr. V.S. Gurjar, counsel for the respondents.

**ORDER**

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

The Misc. Application No.80/2010 has been filed for condonation of delay in filing the original application No.135/2010 on the ground that prior to filing of O.A. before this Tribunal, the applicant had wrongly preferred a writ petition before the Hon'ble High Court of Rajasthan but the same was permitted to be withdrawn vide order dated 24.04.2009 with liberty to approach the appropriate forum.

2. From perusal of the O.A. No.135/2010, it appears that the applicant has filed the said O.A. for seeking issuance of directions to the respondents to grant him appointment on the post of Lower

Division Clerk and to dispose of the representation filed by the applicant after giving sympathetically consideration.

3. From perusal of the O.A., it further transpired that the applicant was called for interview for the post of Lower Division Clerk in the respondent department vide letter dated 29.08.1998 (Annexure-A/1) and the Selection Committee after considering the written test, typing test as well as viva voce of the applicant, found the applicant suitable to be appointed on the post of LDC. However, the applicant was shown as not qualified in typing test and due to that the appointment letter was not issued to him and so the applicant by filing this O.A. has sought relief for issuance of direction to the respondents to appoint the applicant on the post of LDC.

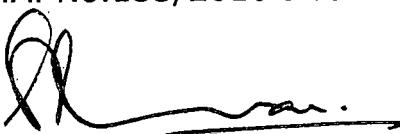
4. Thus, from perusal of the records, it is clear that the cause of action for filing of this O.A. has arisen to the applicant as long back as in the year 1998 i.e. on 04.09.1998. This is also apparent from Annexure A/3 annexed with the O.A. However, it appears that the applicant had preferred this original application in the year 2010 and the ground taken in the Misc. Application filed for condonation of delay is that since the applicant has wrongly preferred the writ petition before the Hon'ble High Court of Rajasthan and the Hon'ble High Court of Rajasthan issued direction in the said writ petition directing the applicant to approach before the appropriate forum as such the O.A. No.135/2010 was preferred before this Tribunal with a Misc. Application for condonation of delay.

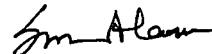
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5. We have seen the order of the Hon'ble High Court of Rajasthan dated 24.04.2009 which shows that the said order was passed in S.B. Civil Writ Petition No.202, which was filed in the year 2009 and, therefore, it is clear that the said writ petition, which was filed before the Hon'ble High Court of the Rajasthan by the applicant, was filed after a period of about 11 years from the date on which the cause of action arose to the applicant. Therefore, we are of the view that filing of the writ petition before the Hon'ble High Court of Rajasthan will not make the applicant entitled for condoning the delay in the filing of the O.A. We therefore, hold that the O.A. is hopelessly time barred and such a long delay in filing of O.A. cannot be condoned.

6. The Hon'ble Apex Court in the case of **C. Jacob vs. Director of Geology & Mining and another, 2008 AIR SCW 7233** has held that if on the face of it, the claim appears to be stale and it is established that the reliefs claimed are not with regard to live claim, the O.A. should not be entertained.

7. Thus, we are of the opinion that the M.A. No.80/2010 filed by the applicant for condonation of delay cannot be allowed as such the same is hereby dismissed and as a result of dismissal of M.A., the O.A. No.135/2010 also stands dismissed. No order as to costs.

  
[Sudhir Kumar]  
Administrative Member

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