

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 458/91 109
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DATE OF DECISION 2.7.91.

K.M. Ramachandran Nair Applicant (s)

M/s K. Ramakumar &
V.R. Ramachandran Nair. Advocate for the Applicant (s)

Versus

UOI., represented by the Respondent (s)
Director General of Posts,
New Delhi and 3 others.

Mrs. K.B. Subhagamani, Advocate for the Respondent (s)
ACGSC.

CORAM:

The Hon'ble Mr. SP MUKERJI

VICE CHAIRMAN

The Hon'ble Mr. N DHARMADAN

JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

SHRI N DHARMADAN, JUDICIAL MEMBER

This is an application filed for condoning 7 months delay, according to the applicant, in filing the original application.

2. The original application has been filed for quashing Annexure-A order passed by the Assistant Superintendent of Post Office, Changanacherry Sub-Division, terminating the service of the applicant under Rule 6 of the E.D. Agents (Conduct and service) Rules, 1964 pursuant to disciplinary proceedings and Annexure-G letter of the Assistant Post Master General, Trivandrum, intimating the applicant that his petition had been considered and disposed of by the Post Master General on 8.12.1988.

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3. The reason for the delay has been explained in the affidavit is that the appellate authority did not dispose of the appeal filed by the applicant against Annexure A termination order and that his representations following the appeal have been finally disposed of "by Annexure-G order dated 4.8.89 stating that the representations have already been disposed of by the Superintendent of Post Office Changanacherry." In view of the above circumstances, according to the applicant, "there is a delay of 7 months counting from Annexure G order in filing this application. The above delay caused in filing this original application is not due to any wilful negligence or laches on the part of the applicant. The applicant has been honestly waiting for the documents from the department which has only necessitated a delay in filing this original application."

4. The respondents strongly opposed the application by filing a detailed reply statement in which it was stated that the applicant was appointed as EDDA Madappally w.e.f. 24.9.84. His service was terminated by Annexure A order. The applicant preferred an appeal to the Superintendent of Post Office, Changanacherry. Considering all the aspects the authority found that no case for interference has been made out. Accordingly, the order of termination was confirmed by the appellate

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authority as per proceedings dated 7.4.88, copy of which was sent to the applicant on 11.4.1988 under Receipt No. 602 dated 11.4.1988. The applicant received the same on 13.4.88. Photocopy of the signed acknowledgement is Annexure R-4(a). A revision petition dated 20.6.1988 filed by the applicant before the Post Master General was also disposed of and due intimation was given to the applicant on 14.12.1988 under registered post. He received the communication on 17.12.88. The signed acknowledgement is Annexure R-4(b). According to the respondents Annexure-G is only a reply to a subsequent petition dated 12.7.89 addressed to Shri Rajeev Gandhi, Prime Minister of India. In this communication the applicant was informed of the disposal of his appeal on 7.4.1988.

5. We have heard the arguments and considered the evidence in this case. The learned counsel for the applicant, Shri Ramachandran Nair, submitted that the order Annexure A is not an appealable order and the disposal of the appeal is not relevant for considering the issue raising in this case. The service of the applicant in this case was terminated by a loconie order without any enquiry. If the delay is not condoned it would cause gross injustice to a low-payed employee. His termination from

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service has been effected without any enquiry and the order Annexure A is illegal. The learned counsel also cited the decision of the Supreme Court in Collector Land Acquisition, Anantnag and others Vs. M/s Katiji and others, AIR 1987 SC 1353.

6. The applicant has conveniently suppressed in the affidavit accompanying the M.P. for condonation of delay various details such as the receipt of the appellate order dated 7.4.88, the filing of revision petition dated 20.6.88, its disposal by the PMG and the receipt of the order thereof dated 17.12.88. These facts were known only when the respondents filed the reply producing the signed acknowledgements Annexure R-4(a) and R-4(b). On this sole reason the MP is liable to be rejected.

7. Calculating the dates of delay from Annexure-4(b) there is an unexplained delay of nearly 4 years in filing the present application. Even if the reasons stated by the applicant in the affidavit are accepted we cannot allow the MP. He has only given explanation for 7 months delay. The Supreme Court repeatedly pointed out "Every day's delay must be explained." In this case the applicant failed to give explanation for the long delay of nearly 4 years. The MP is liable to be dismissed on this ground as well.

8. The decision cited by the applicant has no application to the facts of the present case. The Supreme Court considered a case in which the appeal preferred by the State of Jammu and Kashmir arising out of a decision in a land acquisition matter involving nearly 14 lakhs of Rupees was dismissed by the High Court rejecting the application for condonation of delay of 4 days. The Court while reversing the decision of the High Court observed "The expression 'sufficient cause' employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose for the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court."

9. In the instant case the applicant has not given any justifiable reason or ground to make a liberal approach and show indulgence and condone the long delay of nearly 4 years. On the otherhand the applicant's conduct in having suppressed essential facts when he has approached this Tribunal persuades us to take a strict view and non-suit him on that sole ground. Accordingly, we dismiss the MP for condonation delay. Consequently the original application is dismissed.

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application is also dismissed. There will be no order as to costs.

N. Dharmadan
(N. Dharmadan) 2.3.91
Judicial Member.

S.P. Mukerji
(S.P. Mukerji)
Vice Chairman