

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 583 of 2011

And

Miscellaneous Application No. 487 of 2011 in

Original Application No. 583 of 2011

Ernakulam, this the 30th day of August, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Smt. Retnam K., (Ex-Senior Stenographer,
Hindustan Latex Limited – Card No. 2111),
Santhosh Nivas, Pattanakkad P.O., Cherthala,
Alappuzha District, Now residing at 20 Tuxedo Court,
Apt # 302, Toronto, Ontario, M1G 3S5,
Canada.

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Applicant

(By Advocate – Mr. T.V. Ajayakumar)

V e r s u s

1. Hindustan Latex Limited, Peroorkada P.O.,
Thiruvananthapuram-695 005,
represented by its Managing Director.
2. The Director (Technical & Operation),
Hindustan Latex Limited, Peroorkada P.O.,
Thiruvananthapuram-695 005.
3. The Joint General Manager, Hindustan Latex
Limited, Peroorkada P.O.,
Thiruvananthapuram-695 005.

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Respondents

(By Advocate – M/s. Menon & Menon)

This application having been heard on 10.08.2011, the Tribunal on
30/8/2011 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

This Original Application is filed by the applicant challenging her


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dismissal from service and seeking her reinstatement in service.

2. The applicant joined Hindustan Latex Limited as Junior Stenographer on 1.3.1989. She was promoted as Senior Stenographer on 4.4.1998. Her husband is employed in Canada. She went on sanctioned leave without pay and allowances for a period of five years from 4.3.2002 to 4.3.2007, in order to join her husband. As her request for extension of leave for another five years was rejected she rejoined duty on 5.3.2007. She was suffering from certain ailment pertaining to cardiac system and vertebral column. As her condition worsened during second week of April, 2007 she was taken to Canada. Her request for half pay leave from 11.4.2007 to 29.4.2007 was granted by the respondents. She submitted a further request for leave for six months from 30.4.2007 for undergoing medical treatment. She was advised for her absence from work till March, 2008 by her Physician in Canada. In the meanwhile by holding an ex-parte inquiry she was dismissed from service vide order dated 25.9.2007 at Annexure A-16. The appellate authority confirmed the penalty of dismissal vide order dated 15.4.2008 at Annexure A-19. Hence this OA.

3. MA No. 487 of 2011 in the instant OA was filed for condonation of delay of 792 days in filing the OA. The applicant urged the following points for consideration in deciding the condonation of delay:

She was taken to Canada for medical treatment. She had applied for leave for six months from 30.4.2007 prior to leaving for Canada. The ex-parte inquiry was conducted without serving notice on her.



Hindustan Latex Workmen's Congress had intervened in the disciplinary proceedings initiated against her which culminated in her dismissal. Request of the Union made on 1.12.2009 was not rejected by the management. The Secretary of the Union sent a letter dated 8.2.2011 informing that the Union was unable to persuade the management to take a final decision in the matter. A Writ Petition was filed on 1.4.2011 before the Hon'ble High Court of Kerala which was dismissed by the judgement dated 12.3.2011 without prejudice to the right of seeking relief from the CAT. Therefore, the delay of 792 days in filing the instant OA before this Tribunal may be condoned, it was prayed, as there was no wilful latches or negligence on her part. If the delay is not condoned she will be put to substantial prejudice, hardship and loss.

4. The respondents argued that the OA filed in June, 2011 is highly belated. The reasons stated by the applicant for condonation of delay of 792 days are self serving made for the purpose of the case and without merits. A perusal of the application would show that the delay is caused due to the negligence and lapses on the part of the applicant. The applicant unauthorisedly absented from work from 11.4.2007 onwards till the order of dismissal was passed. She left the country without permission.

5. Heard the learned counsel for both the parties.

6. Section 21 of the Administrative Tribunal's Act deals with the period of limitation for filing an Original Application. The relevant part is

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extracted as under:-

- “21. Limitation-(1) A Tribunal shall not admit an application,-
 (a) in a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the Application is made, within one year from the date on which such final order has been made;”

The above rule prohibits admission of an application which is not filed within one year from the date on which final order has been made. However, under Section 21(3)(2) condonation of delay in filing the OA is permissible if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within the time limit.

7. The Tribunal exercises its judicial discretion in condoning the delay. Condonation is not to be granted as a matter of routine for mere asking. The judicial discretion is to be exercised on sufficient and valid grounds as an exception. On a careful consideration of the facts of the case and the submission of the parties, we do not find sufficient and valid reasons to condone the delay of 792 days in filing this OA. Hence, the MA No. 487 of 2011 in OA No. 583 of 2010 is dismissed.

8. Consequently, OA No. 583 of 2011 is highly belated and is liable to be dismissed. Accordingly, the OA No. 583 of 2011 is dismissed as barred by limitation. No order as to costs.


 (K. GEORGE JOSEPH)
 ADMINISTRATIVE MEMBER


 (JUSTICE P.R. RAMAN)
 JUDICIAL MEMBER

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