

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Miscellaneous Application No. 371 of 2013 in
Original Application No. 280 of 2013
&
Original Application No. 280 of 2013

THURSDAY, this the 11th day of April, 2013

CORAM:

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

T. Bharathan, aged 60, S/o. Ambu, Postman Thottada (Retired),
Residing at Shalabham, Thottada PO,
Kannur District, Kerala – 670 007.

..... **Applicant**

(By Advocate – Ms. R. Jagada Bai)

V e r s u s

1. Union of India, represented by the Secretary,
Department of Posts, New Delhi – 110 001.
2. Chief Post Master General,
Kerala Circle, Trivandrum – 695 033.
3. The Superintendent of Post Offices,
Kannur Division, Kannur – 670 001.
4. The Assistant Superintendent of Post Offices,
Kannur Sub Division, Kannur – 670 001.
5. Sri. T.V. Raghavan, aged 52, Father's name not available,
Postman, Payyanur Mukhya Dakh Ghar,
Payyanur, Kannur District – 670 307.

..... **Respondents**

(By Advocate – Mr. Pradeep Krishna, ACGSC)

These applications having been heard on 04.04.2013, the Tribunal on

11-04-2013 delivered the following:



ORDER

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

The above MA has been filed praying for condonation of delay in filing OA No. 280 of 2013.

2. The applicant had filed OA No. 280 of 2013 for a declaration that he is entitled to be reckoned and appointed to the cadre of Postman at par with respondent No. 5, his counter part in the select list, with effect from 30.01.1991 notionally with all consequential benefits.

3. In MA No. 371 of 2013 the applicant submitted that he was not aware of the early posting of respondent No. 5, who appeared in the examination for promotion to the cadre of Postman held on 21.10.1990 in Kannur Division along with him. The official respondents were duty bound to extend the benefit of appointment with effect from 30.1.1991 along with the respondent No. 5. Instead the applicant was given a posting as Postman on 1.1.1993 only. He came to know about the earlier posting of respondent No. 5 only on 31.12.2012 during his farewell party. Because of the delay in giving him a posting on 30.1.1991 the applicant lost financial upgradation under MACP Scheme, reduction in pay fixation and pension. The delay in filing the OA is not deliberate. It occurred due to inadvertence of the applicant. The Hon'ble Apex Court in Civil Appeal No. 5151-5152 of 2008 decided on 13.8.2008 held that if the issues relates to pay or pension, relief may be granted in spite of delay as it does not affect the rights of the third party. For these reasons the delay of 7393 days in filing the OA No. 280 of 2013 should be condoned.

4. We have heard the learned counsel for the parties and perused the records.



5. The delay of 7393 days in filing the OA No. 280 of 2013 is extraordinary. That the applicant came to know of the earlier appointment granted to respondent No. 5 on 30.1.1991 is incredible. Even if it is a fact it cannot be a good reason to condone the huge delay in filing the OA in question. Efflux of time can extinguish a legal right. A litigant should be alert in claiming his right in time. The cause of action for the applicant arose on 30.1.1991 when the respondent No. 5 was posted as Postman. Under Section 21(1)(a) of the Administrative Tribunals Act, 1985 a Tribunal shall not admit an application unless the application is made within one year from the date of cause of action. The basic issue in OA No. 280 of 2013 is the entitlement of the applicant for appointment to the cadre of Postman at par with respondent No. 5 with effect from 30.1.1991. The issue of pay or pension is a consequential matter. Therefore, the decision of the Hon'ble Apex Court cited by the applicant is of no relevance to his case. In our considered view, the grounds raised by the applicant do not constitute sufficient cause for not making the application within the period of limitation. Hence, the MA No. 371 of 2013 is dismissed. Consequently, the OA No. 280 of 2013 is dismissed as barred by limitation. No costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

"SA"