

Central Administrative Tribunal, Lucknow Bench, Lucknow

O.A. No. 411/2010

This the 7th day of October, 2010

Hon'ble Shri Justice Alok Kumar Singh, Member (J)

Hon'ble Sri S.P.Singh, Member (A)

Sughar Lal aged about 52 years son of late Ram Lal resident of Railway Quarter No. 1-106 D, Bhilawan , Railway Colony, Alambagh , Lucknow.

Applicant

By Advocate: Sri Siya Ram

Versus

1. Union of India, through General Manager, Northern railway, Hd Qurs. Office, Baroda House, New Delhi.
2. Sr. Divisional Mechanical Engineer (C&W) Northern Railway, Divisional Railway Manager's office, Hazratganj, Lucknow.
3. Assistant Divisional Mechanical Engineer (CDO), N.Railway, CB, Lucknow.

Respondents

By Advocate: Sri Deepak Shukla for Sri Proshant Kumar

ORDER

By Hon'ble Sri Justice Alok Kumar Singh, Member (J)

Heard the learned counsel for the applicant and learned counsel for opposite parties and perused the material on record.

2. An application for condonation of delay in filing the Original Application No. 411/2010 has been filed along with an affidavit saying that the applicant is working as Khalasi /Helper under CDO, Northern Railway, Lucknow. He was illegally removed from service in August, 2004 by Opposite Party No.3. It is said that he moved an appeal on administrative side on 24.5.2006 under Rule 18 of D&AR, 1968, which was rejected as time barred vide order dated 5.6.2006/5.8.2006. It is worthwhile to mention here that the prescribed period for filing appeal is only 45 days. Learned counsel for applicant submits that this order was served on the applicant on 1.12.2008. It is said that the applicant could not file the Original Application within one year from the date of appellate order received on 1.12.2008, on account of the fact that the

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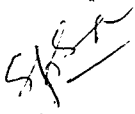
relevant documents handed over to the counsel for drafting the appeal were not traceable and were misplaced. Then the applicant approached the office of opposite party No. 3 to provide the photo copies of the relevant documents, which he could get on 4.9.2010 and then he filed this O.A. Therefore, it is said that the delay is neither willful nor deliberate and it should be condoned.

3. The affidavit filed by the applicant in support of the aforesaid contentions appears to be vague and no reliance can be placed on it for the following reasons:-

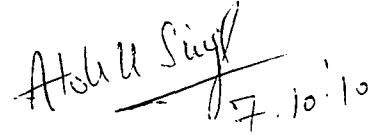
i) Concededly, the removal order was passed in August, 2004. The applicant did not file the statutory appeal within the prescribed period of 45 days. He filed the appeal after lapse of about 2 years which was rejected being time barred vide order dated 5.6.2006/5.8.2006. It is difficult to believe that this rejection order was served upon the applicant after about 2 years i.e. 1.12.2008 as said in the affidavit. Even if, for a moment it is taken to be correct, the O.A. was not filed within prescribed period of one year. A very fragile and lame excuse has been given in this regard. It is said that the relevant documents were handed over to some counsel for drafting the appeal which were got misplaced. But even the name of the counsel has not been disclosed. Therefore, such sweeping explanation cannot be accepted. Similarly, it has been said that the applicant personally approached to the office of opposite party No.3 for obtaining photo copies of the documents which he could get on 4.9.2010. But again no details have been given as to on which date, he approached the officials of the department and what were the names of those officials and how the photo copies of the relevant documents were given to him surreptitiously. In support of his contentions, any documents have also not been brought on record.

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4. Finally, therefore, we regret in not finding any substantial reason for condoning the delay. Accordingly, delay condonation application is rejected. Consequently, the O.A. is also rejected without admission.



(S.P. Singh)
Member (A)



(Justice Alok Kumar Singh)
Member (J)

HLS/-