

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No: 230/2007

Lucknow this, the 6th day of September 2008

**Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)**

Dinesh Narayan Pandey,
aged about 44 years,
S/o Sri Jagdamba Prasad Padney,
R/o Village Sarauna,
Post Office Sahjanwa (Kauria) District Gonda
(Lastly working as Extra Departmental Brach Postmaster,
Sahjanwa (Kauria District Gonda).

Applicant.

By Advocate Sri R.C. Singh.

Versus

1. Union of India, through the Secretary,
Ministry of Communications
(Department of Posts)
New Delhi.
2. Postmasters General, Gorakhpur Region
Gorakhpur.
3. Director Postal Services,
Office of Post Masters General,
Gorakhpur Region,
Gorakhpur.
4. Superintendent of Post Offices Gonda Division,
Gonda.

Respondents.

By Advocate Sri S. P. Singh.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant who was working as Extra Departmental Branch Post Master (EDBPM), Sahjanwa , District Gonda has challenged the order dated 27.4.1995 dismissing him from the services and the appellate order dated 6.5/02-06-97 confirming the punishment and the revision order of Respondent No. 2 rejecting his revision petition.

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2. The Disciplinary proceedings were initiated against the applicant, while he was working as ED Branch Post Master at Sahjanwa district Gonda on a number of charges involving misappropriation of public money, unauthorized closure of the post office, etc. A regular inquiry was conducted against him as prescribed under Rules and after completion of inquiry, the punishment of dismissal from service was imposed upon him by respondent No. 3 vide Memo No. F-7/93-94/2 dated 27.4.1995. In the present application, the applicant has alleged that the charges were concocted, baseless and made with ulterior motive, and that the inquiry was not conducted according to provisions of rules and principles of natural justice.

3. The applicant preferred an appeal on 26.6.1995 which was rejected by the appellate authority (Respondent No. 3). It may be mentioned here that copies of his appeal petition, inquiry report, the original punishment order have not been annexed to this application. Thereafter, he filed a revision petition on 29.7.97 before respondent No. 2 through his Advocate Sri Ramesh Shukla. Even though no orders were passed after expiry of 6 months from the date of filing of revision petition, he could not challenge the dismissal order before this Tribunal because, according to him, his economic condition had deteriorated after dismissal from service. The revision petition was ultimately rejected on 23.11.98 in a detailed order of the respondent No. 2, which has been filed as Annexure 2 to the application.

4. According to applicant, he was not able to establish contact with his counsel for a long time and no other advocate could offer any advice to him in the absence of relevant documents. However, he had a

chance meeting at a railway station with Sri Shukla who informed that he had since moved away from Lucknow to Delhi. Although he promised to send the file concerning his case, he did not live up to his promise even after lapse of long time. Because of his indigent condition , the applicant could not take further steps in the matter. However, he made an effort during the period 2002 - 2006 to reconstruct his file. This was responsible for the major part of the delay and the applicant ultimately could manage to file this application with the help of another advocate on 5.6.2007.

5. He has filed an application for condonation of delay.
6. The counsel for the respondents raised the preliminary objection about maintainability of the application, as it was barred by limitation. The delay involved is more than 9 years, if it is computed from 23.11.1998, the date of passing of the revisional order. According to the counsel for the respondents, the ground advanced by the applicant appears to be based on a fabricated and unreliable story. It does not satisfactorily explain the long delay of over 9 years and it cannot be accepted as sufficient ground for condonation of delay. The counsel for the respondents has cited the cases of Mohd. Khalil Vs. Union of India (1997) 3 SLJ (CAT) 54 and Bhagmal Vs. Union of India (1997) 2 SLJ (CAT) 543 which reiterate the position that unless sufficient ground is shown the delay should not be condoned. Section 21 Sub Clause 3 also makes it very clear that an application filed beyond the limitation period could be admitted if the applicant satisfies that he had sufficient cause for not making the application within the limitation period.

7. The counsel for the applicant cited the following cases:



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Smt. Prema Devi and Others Versus Joint Director Of Consolidation

Mujaffar Nagar and another reported in 2003 (21) LCD 793 and Collector, Land Acquisition Anantnag and another versus MST. Kotiji and others reported in AIR 1987 SC 1353 in which it was held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. However, the Supreme Court has also said that before the exercising the discretion the facts of each case should be kept in mind.

8. The point at issue is whether the grounds advanced by applicant are satisfactory and whether they can be construed as sufficient reasons for condonation of delay. The applicant admits that he had engaged a counsel for filing revision petition before respondent No. 2. He also mentions that he had visited the office of Respondent No. 2 along with the counsel many times to expedite the final decision on this revision petition. At the same time, he says that because of his financial condition, he could not file the application after expiry of 6 months from the date of filing of the revision petition (vide Paragraph 5 of his affidavit in support of the application for condonation of delay). He tries to put the blame on his counsel and makes the allegation that due to the counsel's negligence in not returning the file, there was some delay. At the same, he admits to have met his former counsel on 15. 1.1999 and learnt about his shifting of residence to Delhi. He has not satisfactorily explained why it could take almost 8 years for him to engage a new advocate and file the application. Besides, the allegations of negligence against a counsel behind his back cannot be accepted at the face value without there being any corroborative statement from the previous counsel about the alleged misplacing of the file of the applicant.



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9. From the aforesaid analysis, it is seen that the applicant has failed to establish that there was sufficient cause for not making the application within the limitation period of one year from the date of passing of the revisional order. We find that this application suffers from delay and laches on the part of the applicant. Therefore, the preliminary objection made by the respondents about non-maintainability of this application on the ground of limitation is sustained.

10. In the result, the application is dismissed as barred by limitation. No costs.


Member (A)


Member (J)
16-09-08

v.