

**CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH,  
LUCKNOW**

(4)

**M.P.No.992/2011**

**In**

**Original Application No.151/2011**

**This the 23<sup>rd</sup> Day of May 2011**

**Hon'ble Mr. Justice Alok Kumar Singh, Member (J)**

Maha Deo, aged about 41 years, son of Late Banwari, resident of Village Mahimapur, Post Office Deo Kaliya, Police Station Sadarpur, District Sitapur.

...Applicant.

**By Advocate: Sri Ganesh Gupta.**

**Versus.**

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, Northern Eastern Railway, Hazratganj, Lucknow.
3. Divisional Railway Manager (Administration) North Eastern Railway, Hazratganj, Lucknow.
4. Assistant Divisional Engineer, North Eastern Railway, District Sitapur.
5. Section Engineer, North Eastern Railway, Biswa, District Sitapur.

.... Respondents.

**By Advocate: Sri Amar Nath Singh holding brief for Sri M.K. Singh.**

**Order (Reserved)**

**By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)**

This is an application for condonation of delay in filing the OA. It is said that the father of the applicant namely Banwari

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died on 18.11.2002 during his service as 'Chaukidar' under O.P.No.5. His mother also died during the life time of his father. On 15/16.2.2005, he preferred a representation in respect of compassionate appointment followed by several representation dated 10.1.2006, 12.01.2006 and 23.6.2006. Then a representation was moved on 26.12.2007. The last representation is said to has been moved on 22.2.2011 and on that basis relaxation has been sought in the limitation. The prescribed limitation is one year.

2. From the other side a detailed written objection has been filed saying that even if the averments made by the applicant are believed as true he has failed to justify the delay. It is said that according to his own case after the death of his father in the year 2002, after about three years for the first time he moved a representation in the year 2005. This representation was followed by 3 or 4 representations in the year 2006 as mentioned in the affidavit of the applicant and then he moved representation/reminder on 26.12.2007. Thereafter there is a long gap of more than three years. It is said from the side of the respondents that with a view to cover the delay, the applicant moved a last representation dated 22.2.2011 i.e. after about more than three years. But, the law is settled on the point that the repeated representations cannot justify such an inordinate delay. The applicant's counsel placed reliance on the following case law;

(i). **Rajpat Singh an Others Vs. Veer Singh reported in 2010**

**(2) ALT 637** - In this case the matter was in respect of

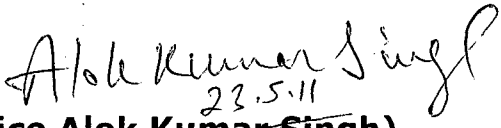
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condonation of delay in filing Civil Revision and it was found that length of delay was not very much material. In the aforesaid case the suit was decreed ex-parte on 25.09.2004 and thereafter defendant/ respondent has filed an application under Order 9, Rule 13 of the CPC which was rejected. Then an application for recall was filed in April, 2006 alongwith an application under Section 5. The said application was rejected by the trial court on 30.11.2007 on the ground that the delay has not been properly explained. As against that the defendant /respondent has filed Revision which was allowed by the order and that was impugned in the writ petition. The facts of the present case are different. There is no series of litigation here. The applicant has approached this Tribunal for the first time. The Administrative Tribunal Act, 1985 specifically provides a period of limitation and there is no convincing explanation for an inordinate delay of more than three years. It is needless to say that a tendency has grown to make repeated representations in order to bring a case within the ambit of limitation. But the law is now settled on this point that repeated representations cannot bring a case within the ambit of limitation. In the present case also the last representation is said to have been made after a long gap of three years without any plausible explanation and therefore no benefit can be derived from this case law.

(ii). **Improvement Trust, Ludhiana Vs. Ujagar Singh & Others reported in [2010 (28) LCD 1531]**- In this case, it was held that an attempt should always be made to allow the matter to be contested on merit. This case law also pertains to civil litigation

pending in the Civil Court. Considering the facts and circumstances, the matter was remitted back to the Executing Court to consider and dispose of appellant's objections filed under Order 21 Rule 90 of CPC on merits. In this case also there was not much delay and facts were also different. Further, on the analogy in respect of the previous case law, the applicant cannot be given any benefit of this case also in the present case.

3. Finally therefore this application is rejected. Consequently, the OA is also dismissed without admission. No order as to costs.

  
23.5.11  
**(Justice Alok Kumar Singh)**  
**Member (J)**

Amit/-