

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.39/2000 in OA.NO.1085/94

Dated this the \_\_\_\_\_ day of \_\_\_\_\_ 2001.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

A.S.Hiwrale .....Applicant

V/S.

The Union of India & Ors. ....Respondents

Tribunal's Order by Circulation

This is an application under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for review of the order passed in OA.NO.1085/94 on 7.6.2000.

2. The review application is filed on 9.8.2000 along with application for condoning the delay. The delay is sought to be condoned on the ground as stated below :-

" The applicant further states that the copy of the judgement dated 7.6.2000 on or about 15.6.2000 was received by the Advocate of the applicant on or about 15.6.2000. Thereafter, the copy was sent to the applicant at Bhusawal and the same was received by the applicant on or about 1st July, 2000. Thereafter, the applicant took advice of his Advocate and this is how the present review petition is filed. The applicant after receiving the copy of the order, made a representation and the respondents passed order dated 14.7.00 turning down the request of the applicant for promoting the applicant. Therefore, it took some time for the applicant in approaching this Hon'ble Tribunal."

28	O.A- 215/98 ( NAGPUR )	SHRI S.G.JOSHI V/s M/O DEFENCE & 2 ORS.	SHRI P.C.MARKAPAKWAR
29	O.A- 220/98 ( NAGPUR )	SHRI G.M.WANKHEDE V/s C.RLY. & 3 ORS.	SHRI B.J.KAWADE SHRI R.S.SUNDERAM
30	O.A- 269/98 ( BHANDARA )	SMT. P.S.BADWAIK & ANR V/s D/O POSTS & 4 ORS.	SHRI D.B.WALTHARE SHRI R.S.SUNDERAM
31	O.A- 287/98 ( NAGPUR )	SHRI S.K.AWALE V/s M/O DEFENCE & ANR.	SHRI P.D.MEGHE/B.LAHIRI
32	O.A- 290/98 ( WARDHA )	SHRI P.J.KAMBLE V/s C.RLY. & 2 ORS.	MS. S.KUMBHARE
33	O.A- 321/98 MP.N-83/98 ( BADNERA )	SHRI A.MANNAN V/s C.RLY. & ANR.	SHRI M.W.HARSULKAR
34	O.A- 371/98 ( NAGPUR )	SHRI C.S.UMAK V/s ORDNANCE FACTORY & ANR.	SHRI UTPAL RUDRA
35	O.A- 414/98 MP.N 102/98 MP.N-93/98	SMT. S.W.BANSOD & ANR V/s C.RLY. & ANR.	SHRI B.R.WAKODE
36	O.A- 442/98 ( BHOPAL )	SHRI H.B.SAHARE V/s AIRPORT AUTHORITY & 3 ORS.	SHRI B.J.KAWADE
37	O.A- 443/98 ( NAGPUR )	SMT. J.L.SHRINIVASRAO V/s S.E.RLY. & ANR.	MS. L.SWAMINATHAN
38	O.A- 447/98 ( NAGPUR )	SMT. T.G.SONAWANE & ANR V/s S.E.RLY. & ANR.	SHRI M.M.SUDAME
39	O.A- 654/98 ( NAGPUR )	SHRI K.R.MESHRAM V/s S.E.RLY. & 2 ORS.	MRS. B.DANGRE
40	O.A- 655/98 ( NAGPUR )	SHRI S.S.TABHANE V/s M/O DEFENCE & 3 ORS.	SHRI M.G.BHANGDE
41	O.A- 659/98 ( NAGPUR )	SHRI D.D.SONTAKKE V/s WAREHOUSING CORP. & ANR.	MS. S.N.KUMBHARE

" This delay has occurred due to the fact that the applicant is working at Bhusawal. The applicant could not get a copy of the judgement dated 7.6.00 immediately and therefore he could not file the present Review Petition in time."

3. Thus, there appears two grounds for condoning the delay (i) the request by way of representation for promotion is turned down by the respondents and (ii) the applicant is working at Bhusawal.

4. Regarding the request by the applicant for promotion which is turned down by the respondents, it is suffice to state that in view of para 17 of the order when the respondents were given a liberty to proceed after issue of afresh chargesheet, on the basis of chargesheet A/7, the respondents were inclined to proceed, hence turning down the request for promotion cannot be a ground for condoning the delay in filing the review petition but a ground subsequently arisen ~~for~~ <sup>may be</sup> a fresh cause of action.

5. Every applicant is not supposed to be at Mumbai. The applicant has failed to state that when the copy of the order was despatched <sup>to him</sup> and what was the mode adopted for sending the copy of the order to him which took more than 15 days for receiving the same at Bhusawal. In absence of these facts and the reasoning given by the applicant, we do not find any ~~reason~~ <sup>Cause</sup> what to say of sufficient cause for condoning the delay in filing the review application. Hence, application deserves to be dismissed and is dismissed accordingly as barred by time.

14	O.A- 1129/97 ( NAGPUR )	SHRI S.R.GANAR V/s D/O POSTS & 2 ORS.	SHRI B.D.DAVE SHRI R.S.SUNDERAM
15	O.A- 1131/97 ( NAGPUR )	SHRI N.L.SUTEY V/s D/O POSTS & 3 ORS.	SHRI D.B.WALTHARE SHRI R.S.SUNDERAM
16	O.A- 1132/97 MP.N-239/97 ( NAGPUR )	SMT. S.D.MAHADEO V/s C.RLY. & 2 ORS.	SHRI B.J.KAWADE SMT. INDIRA BODADE
17	O.A- 12/98 ( NAGPUR )	SHRI G.V.RAJU V/s S.E.RLY. & 3 ORS.	SHRI V.A.MASODKAR SHRI P.N.CHANDURKAR
18	O.A- 43/98 MP.N-264/97 ( NAGPUR )	SHRI P.Z.CHAURE V/s D/O ATOMIC ENERGY & 2 ORS.	SHRI R.DARDA
19	O.A- 45/98 MP.N-266/97 ( NAGPUR )	SMT. K.C.BORKAR V/s C.RLY. & ANR.	SHRI G.CHOUBEY
20	O.A- 48/98 ( NAGPUR )	SHRI A.S.KHOBragade V/s S.E.RLY. & 4 ORS.	SHRI S.D.DESHPANDE
21	O.A- 50/98 ( AKOLA )	SHRI D.N.GUPTA V/s D/O PERSONNAL & ANR.	SHRI M.S.DESHPANDE
22	O.A- 56/98 ( NAGPUR )	SHRI H.M.GONDANE V/s C.RLY.	SHRI M.W.HARSULKAR
23	O.A- 57/98 ( NAGPUR )	SHRI A.K.BANERJEE V/s S.E.RLY. & ANR.	SHRI R.G.BHORE
24	O.A- 59/98 ( NAGPUR )	SHRI S.D.PATIL V/s S.E.RLY. & ANR.	SHRI V.N.AMBAGADE
25	O.A- 63/98 MP.N-265/97 ( NAGPUR )	SHRI N.K.SINHA V/s C.RLY. & ANR.	SHRI B.J.KAWADE
26	O.A- 90/98 ( NAGPUR )	SHRI S.R.PALI V/s S.E.RLY. & 2 ORS.	SHRI M.B.AGASTI
27	O.A- 100/98 ( AKOLA )	SHRI M.C.CHANDAN V/s C.RLY. & 2 ORS.	SHRI C.S.TAIDE

6. If we have condoned the delay in filing the Review application even on merits, the application is liable to be dismissed as review is sought on ground of Annexure A-1 Railway Board's Circular No. E (D&A) 92 RG-6-149(A) dated 21.1.1993 RB No.13/93. The said circular was not part of the OA. nor relied on by the applicant during the course of hearing. The review cannot be granted on the ground of discovery of new points of law or authorities which show that the decision was not correct (A.I.R. 1971 SC 1474). Further, it relates to pendency of disciplinary proceedings for two years and its' effect while in the present case Disciplinary Proceedings ended earlier than two years.

7. The subsequent ground for review is in respect of para 17 of the order. It is suffice to state that no finding has been recorded in this para except that the respondents are free, if they want to initiate/continue the disciplinary proceedings. Hence, question of chargesheet A/7 being cancelled, no action on the basis of the same can be continued, <sup>was</sup> is not decided by this Tribunal.

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8. In the result, we do not find that there was sufficient cause for condoning the delay for filing the review application and even it has no merit. hence, it is liable to be rejected and is rejected accordingly.

(S.L.JAIN)

MEMBER (J)

(B.N.BAHADUR)

MEMBER (A)

xx On 30.1.2001 when the matter was on the Board for hearing M.P.73 of 2000, the learned counsel for the applicant submitted the Circular No. E (D&A) 92 RG 6-83 dated 1.12.93 issued by Railway Board m/r. (RBF No. 171/93), to which the learned counsel for the respondents objected. It is worth mentioning that even while preparing the review application, the required pains are not being taken by the concerned. When the matter is in circulation, no notice to the respondents has been issued by the Bench for hearing, the objection hold no water. However, placing the matter on record at any time <sup>not</sup> can be accepted as a procedure. Hence we restrain to consider the same.