

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 183/95

Transfer Application No.

Date of Decision 21.8.1995

A.K.Jadhav

Petitioner/s

Shri D.V.Gangal

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri S.S.Karkera.

Advocate for
the Respondents

CORAM :

Hon'ble Shri. Justice M.S.Deshpande, Vice-Chairman,

Hon'ble Shri. P.P.Srivastava, Member(A).

- (1) To be referred to the Reporter or not ? no
- (2) Whether it needs to be circulated to other Benches of the Tribunal ? no


(M.S.DESHPANDE)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Original Application No.183/95.

A.K.Jadhav.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

Appearances:-

Applicant by Shri D.V.Gangal.

Respondents by Shri S.S.Karkera.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 21.8.1995.

We have heard the learned counsel for the parties on the question of condonation of delay. The impugned order was passed on 5.8.1989. According to the applicant he approached the Union Officer Pravin Narvekar for getting his case represented before the concerned authorities and it was on his advice that he refrained from taking any action from 1989 to April, 1994 when the present application was filed. Though an affidavit of the Union Official has been filed in support, it is apparent that the applicant could have pursued his remedy by making proper representation and approaching the Tribunal within time. Leaving the matter entirely in the hands of the official of the Union without verifying whether that was the proper remedy would show that the applicant was not diligent in prosecuting his remedies.

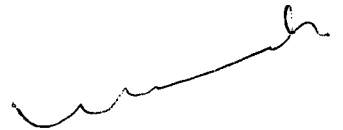
2. We find that there is no sufficient cause for condonation of delay. The application for

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condonation of delay is dismissed. Accordingly,
the O.A. is dismissed as barred by time. There will
be no orders as to costs.



(P.P. SRIVASTAVA)
MEMBER (A)



(M.S. DESHPANDE)
VICE-CHAIRMAN

B.

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

R.P. NO.: 114/95 IN O.A. NO. 183/95.

Dated, this Friday 2nd, the 2nd day of August, 1996.

CORAM : HON'BLE SHRI B.S. HEGDE, MEMBER (J).
HON'BLE SHRI P. P. SRIVASTAVA, MEMBER (A).

Ashok Kashinath Jadhav,
Siddharth Colony,
Bajirao Kamle Plot No. 60-1/10,
Chembur (E),
BOMBAY - 400 071.

... Applicant

(By Advocate Shri D.V. Gangal)

VERSUS

The Union Of India through

1. The Chief Post Master General,
Maharashtra Circle,
G.P.O.,
Bombay - 400 001.

2. Sub-Post Master of
Post Offices,
Mulund Check Naka Post Office,
Bombay - 400 082.

... Respondents.

(By Advocate Shri S.S. Karkera for
Shri P.M. Pradhan).

: ORDER :

[PER.: SHRI B. S. HEGDE, MEMBER (J)]

1. The applicant has filed this review application seeking review of the judgement dated 21.08.1995. The O.A. was disposed of by the then Vice-Chairman, Shri Justice M.S. Deshpande and Shri P.P. Srivastava, Member (A). Since Shri Justice M.S. Deshpande, retired from service in the month of September 1995, the applicant has sought review of the judgement rendered by the Tribunal by filing a Review Petition in the month of October 1995. Accordingly,

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Accordingly, a Bench was constituted consisting of myself and Shri P.P. Srivastava, Member (A), to hear the Review Petition. The Review Petition was heard on 26.07.1996.

2. Shri D.V. Gangal appeared on behalf of the review applicant and Shri S.S. Karkera for Shri P.M. Pradhan, appeared on behalf of the respondents. Heard the parties and perused the records.

3. It may be recalled that the O.A. was disposed of on the ground of delay and the parties were heard on the question of condonation of delay. Thereafter, the Tribunal passed the aforesaid order. The contention of the Learned Counsel for the applicant is that the applicant approached the Union Officer, Shri Pravin Narvekar, for getting his case represented before the concerned authorities and it was on his advice that he refrained from taking any action from 1989 to April 1994, when the present application was filed. He states that the Union official has filed an affidavit in support of the reasons for delay in filing the O.A. Nevertheless, the Tribunal had observed that, that by itself does not prevent the applicant to pursue his remedy by making proper representation and approaching the Tribunal within time. Leaving the matter entirely in the hands of the official of the Union without verifying whether that was the proper remedy shows that the applicant was not diligent in prosecuting his remedies. The Tribunal found that there was no sufficient cause for condoning the delay and accordingly the O.A. was dismissed as barred by time.

4. The applicant seeks review of the judgement on the ground that the Tribunal ^{or} filed to take into account the decision of the Supreme Court reported in AIR 1987 S.C. 1353 Collector Land Acquisition Anantnag V/s. Katizi wherein the Apex Court laid down that lawful claim should not be defeated by limitation, liberal approach should be adopted while deciding condonation of delay, hyper technical plea of limitation should not be raised, etc. According to the Learned Counsel for the applicant, the Tribunal fell into an error of law apparent on the fact of record. He further states that since the claim of the applicant is genuine, dismissal of the application merely on the ground of limitation is not warranted. Neither the applicant nor the union official filed the application in time, thereby, considering the facts and circumstances of the case, the Tribunal rightly did not condone the delay and the O.A. was dismissed on the ground of limitation.

5. On the other hand, the contention of the respondents is that, since the O.A. has been heard and finally decided by the Tribunal on the sole ground that the application as preferred by the applicant is not within limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985, no review application is permissible and if at all he is aggrieved by the said order, he has to file a S.L.P. before the Supreme Court. The respondents further contend that there is no patent error on the face of the record in dismissing the original application and therefore, the present review application is required to be dismissed.

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6. Since the applicant failed to redress his grievance within time, it is not open to him to make out a ground that he has been caused injustice. Though he has been removed from service in the year 1989, till 1994 he has not made any representation, therefore, considering the background of the case, the Tribunal rightly disposed of the O.A. on the ground of limitation. The authority relied upon by the Learned Counsel for the applicant do not fit into the facts of this case, since the O.A. itself was disposed of on the ground of delay to which he had not offered satisfactory explanation to the Tribunal at the time of disposal of the O.A. It is a well settled principle that review application cannot be utilised for rearguing the case on the same ground again.

7. In the light of the above, none of the grounds referred to in Order 47 Rule 1 of the C.P.C. is made out in this review petition and for the reasons stated above, we find, neither any error apparent on the face of the record has been pointed out nor any new fact has been brought to our notice calling for a review of the original judgement. In the circumstances, we do not find any merit in the review petition and the same is dismissed.


(P.P. SRIVASTAVA)
MEMBER (A).


(B. S. HEGDE)
MEMBER (J).

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Order/Judgement despatched
to Appropriate Resident (s)
on 16/8/96

19/8/96