

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 944/97.

Date of Decision : 04.12.1998.

Shripat G. Bakve, Petitioner.

Shri M.S. Ramamurthy, Advocate for the Petitioner.

VERSUS

Union Of India & Others, Respondents.

Shri V.D. Vadhavkar for  
Shri M. I. Sethna, Advocate for the Respondents.

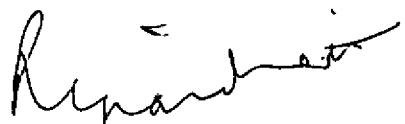
CORAM :

Hon'ble Shri Justice R. G. Vaidyanatha,  
Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

  
(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 944/97.

Dated this Friday, the 4th day of December, 1998.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,  
Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

Shripat G. Bakve,  
Loader,  
Customs Department,  
Mumbai.

Residing at -

Bawkar Chawl,  
Room No. 1, Tembipada  
Pipe Line, Ram Nagar,  
Bhandup, Mumbai-400 078.

... Applicant

(By Advocate Shri M.S. Ramamurthy)

VERSUS

1. Union Of India through  
The Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block,  
New Delhi - 110 011.

2. The Deputy Commissioner of  
Customs,  
Personnel & Vigilance Deptt.,  
New Custom House, Ballard Est.,  
Mumbai - 400 038.

... Respondents.

3. The Assistant Commissioner  
of Customs,  
Personnel & Establishment  
Department,  
New Custom House,  
Ballard Estate, Mumbai-38.

(By Advocate Shri V.D. Vadhavkar  
for Shri M.I. Sethna).

: OPEN COURT ORDER :

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

This is an application filed by the applicant  
seeking reinstatement and regularisation of his service as  
a Custom Loader in the office of the Respondents.

He has filed M.P. No. 608/97 for condonation of delay. Respondents have filed reply opposing M.P. We have heard the Learned Counsels appearing on both sides on the M.P. for condonation of delay.

2. Admittedly, the applicant is not in service from 13.11.1990. According to the respondents, the applicant has remained absent from 13.11.1990 and has never joined later. It is also their case that since the applicant refused to perform the duty of sweeping and cleaning work in the Custom House, they were forced to employ other staff. As far as the condonation of delay is concerned, the reason given is that the applicant <sup>semi-</sup> is a poor and illiterate person and he was making number of representations and, therefore, the applicant's case should be liberally considered and the delay may be condoned. It is also submitted that the applicant's case is similar to that of one Mr. Sawant, who has obtained an order in his favour for reinstatement and regularisation.

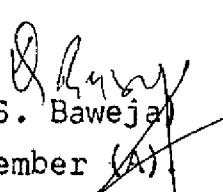
3. As already stated, the applicant is not in service from 13.11.1990. He has approached this Tribunal in September, 1997, 7 years later, for reinstatement and regularisation. On the face of it, the application is hopelessly barred by limitation, besides being hit by the principles of delay and laches. It is well settled that mere sending repeated representations will not arrest limitation. In this case, admittedly the respondents have rejected the applicant's two earlier representations seeking the same relief, making similar request for reinstatement, vide their letters dated 06.01.1992 and 02.06.1992. That was the immediate cause of action to

  
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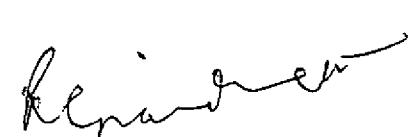
approach this Tribunal in 1992. Infact, Mr. Sawant approached this Tribunal by filing an O.A. in 1993 and order was ultimately passed in his favour in 1996. Nothing prevented the applicant in approaching this Tribunal in 1992-93 and seek reinstatement and regularisation, as was done by Mr. Sawant.

4. The Learned Counsel for the applicant submitted that the respondents have again rejected the request of the applicant as late as 08.08.1995. That letter is at page 23 of the paper book. That letter shows that the applicant's recent representation dated 11.07.1995 was rejected. If the applicant gives one more representation today, the respondents may again reject ~~the~~ <sup>it</sup> on the same ground. Therefore, giving repeated representation and getting reply from the respondents will not save limitation. After considering the facts and circumstances of the case, we find that there is delay of nearly six years and odd and that too, asking for a relief of reinstatement, which cannot be condoned. The reasons given by the applicant for condoning the delay is not sufficient to condone the undue delay of six years and odd.

5. In the result, the M.P. No. 608/97 is rejected. Consequently, the O.A. is disposed of as barred by limitation. There will be no order as to costs.

  
(D.S. Baweja)

Member 

  
(R.G. Vaidyanatha)  
Vice-Chairman.