

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 1149/97

Date of Decision : 19<sup>th</sup> April 2002

K.A.Sakpal Applicant

Ms.Bharati Patel for Advocate for the  
Shri U.Nabar Applicant.

VERSUS

Union of India & Ors. Respondents

Shri Suresh Kumar Advocate for the  
Respondents

CORAM :

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

The Hon'ble Smt.Shanta Shastry, Member (A)

- (i) To be referred to the reporter or not ? yes
- (ii) Whether it needs to be circulated to other ~~Mr~~  
Benches of the Tribunal ?
- (iii) Library yes

S.L.Jain -  
(S.L.JAIN)  
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.1149/97

Dated this the 19<sup>th</sup> day of April 2002.

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

Hon'ble Smt.Shanta Shastry, Member (A)

Kailash Atmaram Sakpal,  
HQC, Commercial,  
Nasik Road, Central Railway,  
Bhusawal.

...Applicant

By Advocate Ms.Bharati Patel  
for Shri U.Nabar

vs.

1. Divisional Commercial  
Superintendent,  
Nasik Road, Bhusawal.

2. Additional Divisional  
Railway Manager,  
Nasik Road,  
Bhusawal.

...Respondents

By Advocate Shri Suresh Kumar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 to quash and set aside the impugned orders dated 7.5.1992 and 1.2.1993 (Exhibit-'B' & 'D') with the direction to the respondents to grant pensionary benefits and gratuity to the applicant.

*Pls'*  
..2/-

2. The applicant has filed this OA. before the Tribunal on 6.2.1996. The OA. itself contains the prayer for condonation of delay in filing the OA. M.P.No.203/98 is also filed for the said relief.

3. The ground on which delay is sought to be condoned is that the applicant sought legal advice from one Advocate at Nasik and he was advised to file Writ Petition before the Hon'ble High Court at Bombay. Accordingly, he instructed the said Advocate to file the Writ Petition. However, after a lapse of about one year, he was informed by the said Advocate that the Writ Petition is not maintainable and he has to approach this Hon'ble Tribunal. It is suffice to state that there were no two opinions in respect of jurisdiction for agitating the matter in respect of the orders passed by the departmental authorities about the jurisdiction of the Tribunal. As such, we are of the considered opinion that the said ground even if admitted to be true one, the applicant is not entitled to any delay condonation, the reason being that only delay can be condoned when the provisions of law can be constituted in two different ways or the precedents are contrary to each other.

4. The other ground which the applicant has raised is that the mother of the applicant was hospitalised because of serious illness, thereafter expired and the applicant was in financial distress. As such, he was in mental distress and could not think of availing remedy for redressal of his grievance. Thereafter,

*PSD :-*

..3/-

his wife also became sick and the applicant was constrained to look after his sick family members and could not approach in time. Ultimately, after satisfying his responsibilities in the family, he approached an Advocate who advised him to file the OA. Accordingly, the applicant has approached this Hon'ble Tribunal. Suffice it to state that the applicant has not placed any documents on record to suggest that his mother was hospitalised, thereafter his wife also became sick and thereafter his mother expired. In case, his mother was hospitalised more the reason to expect the documents from the hospital records of the persons hospitalised, the receipts for payment of charges. The medicines which are being prescribed by the Doctors and bills for purchases which are issued by the Shop-keeper, the death certificate of the mother. Nothing is placed on record in respect of sickness and death of his mother and sickness of wife. The applicant has rightly stated that ultimately after satisfying his responsibilities in the family, he approached the Advocate. Thus, the only conclusion that can be drawn is that he did not care or pay attention towards this matter till he was free from all other botheration, whether in fact it existed or not.

5. The applicant failed to give any date of approaching the Advocate at Nasik, the illness of his mother, the discharge from the hospital, the illness of his wife and recovery thereafter, the date of death of his mother, the date when he contacted the Advocate for filing the application who advised to approach this

*Plm -*

..4/-

Tribunal leading us to conclude that all these statements are nothing but vague allegations, having no truth. As such, we do not find any ground to condone the delay which is almost more than two years. In the result, M.P.No.203/98 deserves to be dismissed and is dismissed accordingly.

6. In the result, the OA. is barred by time, hence it is not necessary for us to examine the case on merits.

7. In the result, OA. deserves to be dismissed and is dismissed as barred by time. No order as to costs.

*Shanta*

(SMT.SHANTA SHASTRY)

MEMBER (A)

*S.L.Jain*

(S.L.JAIN)

MEMBER (J)

mrj.

*dt 19/4/02*  
to Applicant/Respondent(s)  
*2/5/02*

*M*