

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 819/98

Date of Decision: 7.12.98

Shri Kishor Zingruji Funde Applicant.

Shri D.B. Walthare. Advocate for Applicant.

Versus

Union of India and others. Respondent(s)

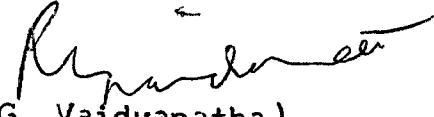
Shri V.S.Masurkar Advocate for Respondent(s)

CORAM:

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

Hon'ble Shri. D.S. Baweja, 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*


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO;6
PRESCOT ROAD, BOMBAY:1

Original Application No. 819/98

Monday the 7th day of December 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member (A).

Kishor Zingruji Funde
Ex.E.D.A. No.3, Salekasa S.O.
Gondia H.O. Distt. Bhandara. ... Applicant.

By Advocate Shri D.B. Walthare.

V/s.

The Union of India through
Secretary, Department of Posts
Ministry of Communications,
Parliament Street, New Delhi.

The Supdt. of Post Offices,
Nagpur Mfl. Dn. Nagpur.

The Asstt. Supdt. of Post Offices,
Gondia Sub Dn. Gondia.

Shri J.D. Kulkarni
Inquiry Officer & Sub Divisional
Inspector of Post Offices,
Gondia Sub-Dn.
Gondia, Distt. Bhandara. ... Respondents.

By Advocate Shri V.S.Masurkar for respondent No.1,2 and 5

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

The learned counsel for the applicant has
tendered rejoinder today . It is taken on record.

This application has been filed by the
applicant challenging the put off duty order dated
18.9.1985 and to quash the charge sheet issued in
the year 1986. The applicant has also filed M.P.
626/98 for condonation of delay. The respondents
have filed reply opposing the application. We have
heard the learned counsel for both sides regarding
admission and hearing on M.P. 626/98.


3. As far as the M.P. 626/98 is concerned, admittedly the cause of action arose in the year 1985 but the applicant came to this Tribunal after 13 years in 1998. He also wants to quash the charge sheet issued in 1986 by filing this application in 1998. On the face of it the applicant is not only barred by limitation but also fails on the point of delay and laches.

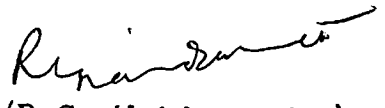
4. The only reason given by the applicant is that he has not received the order of removal from service. If the applicant was put off from duty he cannot keep quite without salary. The applicant has not given any explanation of delay of 13 years.

5. Even on merits, we do not find that any case has been made out for admitting the application. The applicant is challenging the issuance of charge-sheet in 1986. The respondents brought out in the reply that the charge-sheet of 1986 was a second charge sheet and no final order has been passed in the charge-sheet, since on the earlier charge sheet of 1983 the applicant was removed from service by order dated 30.5.87. The learned counsel for the applicant states that he has not received the order of removal from service. Even agreeing for a moment, that the applicant has not received the copy of the order, he cannot keep quite since 1985. He was not taken on duty; the question of quashing the charge sheet does not arise. On the basis of earlier charge sheet the applicant was removed from service. Therefore he cannot challenge the charge sheet of 1986 when he has already been removed from service on the basis of first charge sheet. The learned counsel for the applicant

submits that he would like to file an appeal against the order dated 30.5.87. It is open to the applicant to take whatever legal steps permissible under law. But the present O.A. challenging the proceeding of second charge sheet is not maintainable on the facts and circumstance of the case.

6. In the result M.P. 626/98 for condonation of delay is rejected. Both on merits and on the grounds of limitation the present O.A. is rejected at the admission stage itself. No order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

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