

(102)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.844/91

DATE OF JUDGEMENT

26/3 MARCH, 1992

BETWEEN

Sri A. Manikya Rao

.. Applicant

A N D

1. The Secretary,
Ministry of Communications,
New Delhi-110001.
2. Member(Personnel)
Postal Services Board
Department of Posts
New Delhi-110001
3. Postmaster General
Andhra Pradesh Circle
Hyderabad 500 001.
4. Director of Postal Services
AP Eastern Region
Vijayawada 520 002.
5. Superintendent of Post Offices,
Tenali Division
Tenali 522 201
Guntur Dt.

.. Respondents

Counsel for the Applicant

: Sri T. Jayant

Counsel for the Respondents

: Sri N.R. Devaraj, Addl. CGSC

CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN, MEMBER(ADMN)

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

T. C. R.

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY
THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This OA is filed by the applicant herein under Section 19 of the Administrative Tribunals Act to set aside the dismissal order No. ST/16/5/7/85-86 dated 7.2.86 passed by the 4th respondent herein as modified by the 3rd respondent herein by appellate order No. STA/13.13/86 dated 6.4.87 and as confirmed by the 2nd respondent herein by his revisional order No. 1/153/89. Vig. III dated 31.8.89 with all consequential monetary and service benefits.

There is a delay of 10 months in filing this OA. So, the applicant had filed MA280/92 to condone the delay of 10 months in the filing this OA. Following are the averments in the affidavit accompanying the Miscellaneous Application No. 280/92.

In para 4 of the OA 844/91, the applicant had stated that the OA was within the limitation under Section 21(1)(b) of the Administrative Tribunals Act, 1985 as the date of his ^(Second) Revision Petition submitted to Ministry of Communications, against the impugned order dated 31.8.89 is 11.1.1991, which is one and half years from the date of the dismissal order i.e. 31.8.1989.

The above OA came for admission on 4.9.1991. On that date, it was ordered to issue notices to the respondents before admission. The applicant states that it is within the limitation on the ground that the ^{second} Revision petition dated 31.8.1989 submitted to the Ministry of Communications was within 1 and 1/2 years from 31.8.89.

T. C. N. [Signature]

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The applicant further avers in his affidavit that the

applicant in the counter filed by the respondents on the point of limitation, it is submitted that the second revision does not lie in service matters and therefore the revision petition filed before the Secretary, Ministry of communications cannot be equated to be a revision or memorial filed before the President. It is further stated that once the right of filing the revision before the Board is exhausted, it is not open to the applicant to peruse the matter before the President in any manner as the Board and the President are equated for the purposes of entertaining a Revision Petition under the Rules. It is the case of the respondents that this OA should have been filed within one year from the date of rejection of the revision Petition by the Second respondent i.e. Member (personnel) Postal Services Board Deptt. of Posts New Delhi on 31.8.89 which was received by the applicant on 25.10.89 and should have filed the OA on or before 24.10.90. It is therefore contended by the respondents that the above OA has been filed after a full delay of one year.

The applicant states that as per ^{the} advice of certain experienced persons in service matters that a second revision petition lies to the President under Rules and that the applicant submitted his petition to

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the Secretary, Ministry of Communications on 11.1.91, instead of filing the above on 24.10.90. Hence, it is the case of the applicant that the OA had been filed ~~on~~ with a delay of 10 months on 24.8.91 which is not deliberate and intentional, and prays to condone the said delay of 10 months in filing this OA.

The respondents are stoutly opposing this OA.

It is the case of the applicant that sufficient cause has been made out for not filing the OA in time. All the reasons that are set out by the applicant to make out "sufficient cause" for the delay in filing this OA are pleaded in the affidavit accompanying the OA petition filed to condone the delay to which a reference has already been made. In short, it is the case of the applicant that under the belief that a second revision was ~~not~~ maintainable, that he had preferred a second revision before the Ministry of Communications, Govt. of India, and there is no willful delay in filing of this OA.

"Sufficient cause" means, cause which is bonafide. That which is done in good faith is bonafide. Admittedly, service rules do not provide any type of representation/revision to the Ministry of Communications by the Applicant. Hence, we see no bonafides on the part of the applicant in approaching the Ministry of Communications under the guise of second revision and so it cannot be said that the applicant had acted in good faith. It is not the case of the applicant that he was ~~not~~ prosecuting wrong remedy under bonofide impressions of the legal position. Hence, we see no 'sufficient cause' for condonation of delay in filing this OA.

Copy to:-

1. The Secretary, Ministry of Communications, New Delhi-110001.
2. Member(Personnel) Postal Services Board, Department of Posts, New Delhi-110001.
3. Post Master General, Andhra Pradesh Circle, Hyderabad 500 001
4. Director of Postal Services A.P. Eastern Region, Vijayawada-520 002.
5. Superintendent of Post Offices, Tenali Division, Tenali 522 201.
6. One copy to Sri. T.Jayant, advocate, CAT, Hyd.
7. One copy to Sri. N.R.Devaraj, Addl. CGSC, CAT, Hyd.
8. One spare copy.

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In this context it will be worthy to note the decision reported in AIR 1991 SC 933 - Hindustan Petroleum Corporation Ltd Vs Sir Yashwant Gajanan Joshi which reads as follows.

".....We may mention at this stage that the Special Leave Petition filed by the Union of India was barred by limitation by 90 days and we are not satisfied with the grounds mentioned in the application for condonation of delay filed by the Union of India. The Special Leave Petition filed by the Union of India stands dismissed as barred by limitation."..."

As could be seen the Supreme Court had not condoned even 90 days delay in filing Special Leave Petition before it. In this case also we are not prepared to condone the said delay of ten months in filing this OA as already pointed out as sufficient cause is not made out. Hence MA.280/92 is dismissed. In view of the dismissal of MA.280/92 the OA is liable to be rejected and accordingly is rejected as barred by limitation. In the circumstances of the case, the parties shall bear their own costs.

R. Balasubramanian
(R. BALASUBRAMANIAN)
Member (Admn.)

T. C. R.
(T. CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 26th March, 1992.

8-22/4/92
Dy. Registrar (Judl.)

T. T. G.
Contd. in

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O.A 844/91

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 26/3/1992.

ORDER / JUDGMENT

R.A./C.A./M.A. NO.

in

O.A. No.

844/91

T.A. No.

(W.P. No.)

Admitted and interim directions
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

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