

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

06.03.2014

OA No.291/00089/2014 with MA 291/00054/2014

Mr. Neeraj Sharma, Proxy counsel for
Mr. S.K. Singodiya, Counsel for applicant.

Heard the learned counsel for the applicant. The OA as
well as MA are disposed of by a separate order.

M. Nagarajan
(M. Nagarajan))
Member (J)

Anil Kumar
(Anil Kumar)
Member (A)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 291/00089/2014
With
MISC. APPLICATION NO. 291/00054/2014

Jaipur, the 06TH March, 2014

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISITRATIVE MEMBER
HON'BLE MR. M. NAGARAJAN, JUDICIAL MEMBER

Narottam Lal Meena son of Shri Musa Ram Meena, aged about 63 years, resident of Village Post Surani Via Jharli District Sikar (Ex-Diesel Mechanic Grade-III).

... Applicant

(By Advocate: Mr. Neeraj Sharma proxy to Mr. S.K. Singodiya)

Versus

1. Union of India through General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, North Western Railway, Divisional Office, Jaipur.
3. The Deputy Chief Mechanical Engineer (Diesel), North Western Railway, Shed-Phulera, Jaipur.

... Respondents

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The applicant has filed this OA being aggrieved by the order of the Appellate Authority dated 21.12.2009 (Annexure A/1) vide which his appeal against the order passed by the Disciplinary Authority dated 09.04.1998 (Annexure A/2) has been rejected. He is also aggrieved by the order of removal from service passed by the Disciplinary Authority dated 09.04.1998 (Annexure A/2).

Anil Kumar

2. The applicant has filed a Misc. Application No. 291/00054/2014 for condonation of delay in filing the OA. From the perusal of the file, it is clear that the removal order of the applicant was passed on 09.04.1998. He filed an appeal against this order on 01.06.2009 i.e. after 11 years from the order of removal (Annexure A/2). The Appellate Authority rejected the appeal on the ground that it is time barred. Now the applicant has filed the present OA being aggrieved by this order. In his MA for condonation of delay No. 291/00054/2014, he has not given any reason as to why the applicant could not file the appeal for 11 years. He has stated that the order of appeal was received by him on 15.06.2010 under the Right to Information Act. Admittedly, he has received the copy of appeal on 15.06.2010 but even then he has filed the OA after more than four years from the date of order passed by Appellate Authority (21.12.2009) and more than three years from the date on which the applicant claims to have received the order (15.06.2010). The only ground taken by the applicant is that he could not contact his counsel due to illness. He contacted his counsel in the month of January, 2014 and thereafter filed the present OA. Thus from the perusal of the pleadings, it is clear that he has challenged the order of his removal passed on 09.04.1998 (Annexure A/2). We are now in 2014, thus almost 16 years have passed and the applicant has not given any reason for the delay of 11 years for filing an appeal against the order of the Disciplinary Authority. Even after he received the appellate order on 15.06.2010, he did not file the OA for about more than three years. He has not given any documents in support his statement that he was ill. Under these circumstances,

Anil Kumar

we are of the considered view that no reasonable and sufficient cause has been shown by the applicant for filing this OA belately.

Hence the MA for condonation of delay is liable to be dismissed.

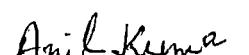
3. The Hon'ble Supreme Court in the case of **Union of India & Others vs. M.K. Sarkar, 2010(1) SCC (L&S) 1126** has held that when a stale or dead issue/dispute is considered and decided, date of such decision cannot furnish a fresh cause of action for reviving dead issue or time barred disputes. The issue of limitation or delay and latches has to be considered with reference to original cause of action and not with reference to day on which the order is passed in compliance with the Court's directions.

4. In this case, the original cause of action is the order of removal by the Disciplinary Authority dated 09.04.1998 (Annexure A/2) and not the order of appeal i.e. 21.12.2009 (Annexure A/1). The applicant has filed this OA almost after 16 years, which is hopelessly time barred.

5. Consequently OA as well as MA for condonation of delay are dismissed with no order as to costs. The Registry is directed to send the copy of this order to the respondents.


(M. NAGARAJAN)
MEMBER (J)

AHQ


(ANIL KUMAR)
MEMBER (A)