

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JAIPUR BENCH, JAIPUR

JUDGMENT

D.B. Civil Writ Petition No.877/2001  
Devender Pal Singh vs. Central Administrative  
Tribunal, Jaipur & Ors.

DATE OF ORDER : April 18, 2002

PRESENT

HON'BLE MR. JUSTICE M.R. CALLA  
HON'BLE MR. JUSTICE SHASHI KANT SHARMA

Mr. SS Hora for the petitioner.  
Mr. Bharat Vyas for the respondents.

BY THE COURT (Per Hon'ble Justice M.R. Calla)

1. This writ petition has been filed against the the order dated 7.12.2000 passed by the Central Administrative Tribunal, Jaipur Branch, Jaipur whereby the application for condonation of delay in filing the restoration application in Original Application No. 544/95 was dismissed.

2. Briefly stated, the facts of the case are that an Original Application No. 544/95 filed by the present petitioner before the Central Administrative Tribunal, Jaipur Bench, Jaipur was dismissed in default on 31st May, 1996. For restoration of this O.A No. 544/95, an application was made on in the year 2000. In this restoration application, the delay was sought to be condoned on the grounds contained in para No. 4 of the impugned order dated 7.12.2000 passed by the CAT wherein it was stated that the petitioner did not know the court procedure, he was transferred from MES Military

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Department, he did remain in contact with his advocate, who informed the petitioner from time to time that the case is progressing well and believing his advocate that his interest would be looked after well he rest contended. After a long time, the petitioner felt that nothing substantial was done and therefore he demanded the file back from his advocate and thereafter applied for certified copy of the ordersheet dated 31.5.96 on 18.9.2000 and thereafter filed an application for restoration alongwith an application for condonation of delay. This application for condonation of delay has been rejected by the Central Administrative Tribunal and accordingly restoration application also stood rejected.

3. We have heard learned counsel for the petitioner and have gone through the impugned order dated 7.12.2000. We find that whatever possible could be done by the present petitioner had been done by him. The petitioner was under the mistaken belief and he came to know about the order of rejection of his Original Application in September, 2000 only. By no means, it can be said that he was not prevented by reasonable and sufficient cause from filing an application for restoration of Original Application No. 544/95 within time. In our opinion, it is a fit case in which delay of 30 days in filing the restoration application should have been condoned and limitation in such case could be counted from the date of knowledge. No material has been placed so as to

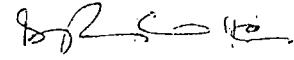
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disbelieve the petitioner's version about the date of knowledge of order by which his Original Application has been rejected.

4. We, therefore, in the interest of justice and to render substantial justice between the parties exercise powers under Article 226 and 227 of the Constitution of India and set aside the order passed on 7.12.2000 by the Central Administrative Tribunal, Jaipur Bench, Jaipur and direct that the restoration application which has been moved by the petitioner be heard and decided on merits after condoning the delay.

5. It is pointed out by Mr. Vyas learned counsel for the respondents that the Original Application had been dismissed in default without notice to the respondent, therefore, the notice of the proceedings before the CAT has to be given. Both the parties agree to appear before the CAT in the matter of restoration application on 15.5.2002.

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(SHASHI KANT SHARMA, J)

  
(M.R. CALLA, J)

OP/-