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CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
CIRCUIT COURT SITTING INDORE

Original Application No. 305 of 2006

Jabalpur this the 21<sup>st</sup> day of July, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman  
 Hon'ble, Mr. A.K. Gaur, Judicial Member

Om Prakash Dasuriya,  
 S/o Late Shri Ram Kishan  
 Aged 38 years, working as Messenger,  
 O/o MCTE, Mhow (M.P.)  
 Address H.No.264, Bada Khajran,  
 Indore (M.P.) Applicant

(By Advocate – Shri I.H.Khan)

Versus

- 1. The Chief Secretary, Government of India,  
 Ministry of Defence, New Delhi.
- 2. The Director General of Signals (Sigs-4(c))  
 Sigs. DTE, Army Head Quarters,  
 DHQ, PO, New Delhi.
- 3. The Commandant,  
 Military College of Telecommunication  
 Engineering Mhow. Respondents

O R D E R

By A.K. Gaur, Judicial Member :-

By means of the aforesaid Original Application, the applicant has prayed for quashing of the punishment order dated 8.3.2003 (Annexure-A-5) passed by respondent No.3 bywhich the order of removal was passed by the disciplinary authority. The applicant has also prayed that he be reinstated on his original post along with consequential benefits etc.

- 2. Before passing of the impugned order dated 8.3.2003 the applicant was held guilty of unauthorized absence w.e.f. 17.6.2001 to 30.6.2002 and for this absence the punishment of stoppage of 2

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increments with cumulative effect for 2 years was awarded to him. The aforesaid period was regularized by grant of dies-non and benefit of pay. Another charge sheet dated 27.4.2002 (Annexure-A-2) was served upon the applicant wherein the applicant's absence was shown from 4.3.2002 to 10.4.2002 (38 days). According to the applicant, this action is hit by doctrine of double jeopardy. It is submitted that the applicant was surprised, when he came to know that the aforesaid period i.e. 4.3.2002 to 10.4.2002 was covered under the period for which he had been punished. The departmental enquiry was initiated against the applicant and after holding the enquiry, a copy of the enquiry report was given to the applicant vide office memorandum dated 24.1.2003 (Annexure-A-3) whereby the applicant was given an opportunity of showing cause as to why the proposed punishment of removal from service should not be imposed upon him. The applicant submitted written submission on 22.2.2003 (Annexure-A-4) to respondent No.3. After considering the submission of the applicant, the punishment order of removal from service dated 8.3.2003 was passed by the respondent No.3. Thereafter the applicant filed a review petition to the disciplinary authority who also rejected vide order dated 21.4.2003 (Annexure-A-7). Thereafter, the applicant filed an appeal before the competent authority dated 24.5.2003. According to the applicant, he had earlier filed an OA No.822/03, for redressal of his grievances. During the pendency of the aforesaid OA No.822/03 the respondents rejected the appeal of the applicant. The applicant had withdrawn the aforesaid OA with a liberty to file a fresh OA, if he still feels aggrieved. Hence this OA.

4. We have heard the counsel for the applicant and carefully perused the records.

5. We have seen the order of the Tribunal dated 10.1.2005 by which the applicant was granted liberty to file a fresh OA, if he still feels aggrieved. The aforesaid order was passed as far back as on 10.1.2005, but the applicant slept over the matter for more than 1 year and filed the present OA on 10.4.2006. No reasonable or plausible

cause has been advanced by the applicant for the delay. Neither he has filed an application for condonation of delay nor any affidavit in support thereof. It is settled principles of law that without condoning the delay, no decision on merits should be given by the Tribunal. In view of the decision of **R.C. Sharma Vs. Udhamp Singh Kamal** reported in **2000 SCC (L&S) page 53**, the OA deserves to be dismissed in the absence of an application of condonation of delay and an affidavit in support thereof. The Hon'ble Supreme Court has also held in its decision **E Parmasivan Vs. Union of India**, reported in **JT 1998 Vol.8 SCC 529**, that the merits of the case cannot be looked into without condoning the delay. We have carefully seen the facts of the case and the decision of the Hon'ble Supreme Court reported in **1999 SCC (L&S) 643, Commandant TSP and Ors. Vs. Easwaramoorti**. We are fully in agreement that this Tribunal should not record any finding on the merits when no valid reasons have been assigned for delay in filing the instant OA by the applicant.

6. In view of the aforesaid decision of the Hon'ble Supreme Court consideration of matters on merits would not be justified. In the facts and circumstances of the case, the OA is liable to be dismissed. Accordingly, the same is dismissed at the admission stage itself.

*A.K.Gaur*  
(A.K.Gaur)  
Judicial Member

*Gaur*  
(Dr.G.C.Srivastava)  
Vice Chairman

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पृष्ठांकन से ओ/न्या.....जवलपुर, दि.....  
प्रतिलिपि ३० जू दिसें  
 (1) सचिव, उपराजपाल विधायिका, जवलपुर  
 (2) आमदाद नियमित, जवलपुर ..... जे काउंसल  
 (3) प्रदर्शनी बैंगनीकी, जवलपुर ..... जे काउंसल  
 (4) अधिकारी, दोपां, जवलपुर विधायिका  
सूचना द्वारा आवश्यक कार्यालयी के

*Approved*  
25/7/06

*1. H. Khan mhow*  
*25/7/06*  
*Dr. G.C. Srivastava*