

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 449 of 2002

Jabalpur, this the 27 day of March 2003.

Hon'ble Shri Shanker Raju - Member (Judicial)
Hon'ble Shri R.K. Upadhyaya - Member (Admnv.)

Surya Bhan Shukla, S/o Late Shri
Ram Sewak Shukla, Aged about 50 years,
(Ex-Fitter (Auto) HS GR II VFJ),
T.No. BoYY 198/1370 Vehicle Factory,
Jabalpur, R/o, Behind Garha Post Office
Near Radhakunj, Rani Durgawati Ward,
Garha, Jabalpur, M.P.

APPLICANT

(By Advocate -None)

VERSUS

1. Union of India
Through Secretary,
Ministry of Defence,
Union of India - New
Delhi - India.
2. The Director General
Ordnance Factories Board,
10A, Auckland Road,
Calcutta - 700001
3. Deputy Director/VIG.
Ordnance Factory Board,
10A, Auckland Road,
Calcutta-70001
4. The General Manager,
Vehicle Factory, Jabalpur.

RESPONDENTS

ORDER (Oral)

By Shanker Raju, Member (Judicial) :-

Through this Original Application, applicant impugns respondent's order dated 15/05/1993, whereby after holding a disciplinary proceeding major penalty of removal has been inflicted. The applicant also assails order of the Appellate Authority dated 31/03/1994, whereby the punishment has been maintained. Although as per Section 21 an application before this Court is to be filed within one year from the order passed by the respondents in a

disciplinary proceeding after the appeal against the order of removal is rejected. By this the limitation of the applicant to prefer an original application before this Court expired on 31/03/1995. The present application has been filed after a delay of about eight years.

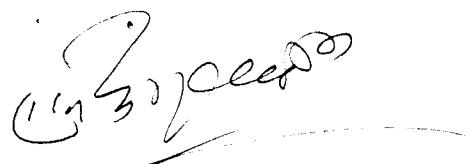
2. However the applicant has filed Misc. Application No. 199/2003 for condonation of delay contending that the applicant has signed the papers while he had engaged Advocate Soni in April 1994 and has been assured that whenever his presence would be required he would be intimated. On enquiries it was apprised by his counsel that his case has already been filed in the court. In May 1997 son of the applicant died and mother also in 1998. On approaching his counsel it was found that he too had expired. In February 2002 the applicant approached the junior counsel who promised to help him in the matter and in April he was told that the documents are lying in the office of the senior and no case has been filed. As the financial condition of the applicant was miserable he could contact his present counsel only in May 2002. As such he seeks condonation of delay.

3. It is a settled principle of law that one who sleeps over his right looses his remedy as well, as held by the Apex Court in R.C. Sammanta Versus Union of India JT 1993 Vol. III SC 41A.

3.1. In Secretary to Government of India Versus Siyaram H Gaikwad 1995 Supp. III SCC 231, dismissal of the petitioner on 07/10/1986 was challenged on 14/09/1990 and order of the Tribunal reinstating the applicant without considering limitation was set-aside by the Apex Court.

4. From perusal of the reasons for condonation of delay the same are not justifiable but as an after thought applicant was not vigilant and had not perused his remedy and as the counsel Shri Soni died he took advantage of this and fabricated his defence which does not inspire evidence.

5. As the relief is directed against an order passed in 1994 the present application suffers from delay and laches and is liable to be rejected as barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. We do so accordingly. OA is dismissed being barred by limitation. No costs.



(R.K. UPADHYAYA)
MEMBER (A)



(SHANKER RAJU)
MEMBER (J)

प्राप्तिकरण सं. शो/व्या..... गोपनीय अधिकारी द्वारा..... गोपनीय अधिकारी द्वारा.....
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(4) शो/व्या..... गोपनीय अधिकारी द्वारा.....
सूचित एवं आवश्यक कार्यालयों पर
T.A. - Dubey & Co
J. M. Hashmi
1/4/03

Issued
on 2.4.03
by
S. Raju

"SA"