

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : GWALIOR

Original Application No.799 of 1999

Gwalior, this the 24th day of April, 2003

Hon'ble Mr.R.K.Upadhyaya-Member (Administrative)
Hon'ble Mr.J.K.Kaushik- Member (Judicial)

Keshav Kumar Kamtaria S/o Shri Nihar Singh
Kamtaria, age 43 years, working as a Senior
Goods Guard, Guna Central Railway Bhopal
Division, District,Guna (M.P.) 473001

- Applicant

(By Advocate - Shri K.K.Pachori)

Versus

1. General Manager Central Railway, Chhatrapati Shivaji Terminus Mumbai, Pin Code-400 001
2. Chief Personnel Officer, Central Railway, Mumbai (C.S.T.) Maharashtra-400 001.
3. Assistant Personnel Officer (Traffic) Central Railway, Jhansi (U.P.) 284001.
4. Chairman, Railway Recruitment Board, D-13, Machna Colony, Shivaji Nagar, Bhopal (M.P.) 462016.
5. D.R.M., D.R.M.'s office, Personal Branch, Nagpur (Maharashtra) 400015.
6. The Principal, Zonal Training School, Bhusawal (Maharashtra) 425201.
7. Divisional Railway Manager, Habibganj Bhopal (M.P.) 462016

- RESPONDENTS

(By Advocate- Shri S.P.Sinha)

O R D E R (Oral)

By J.K.Kaushik, Judicial Member -

Shri Keshav Kumar Kamtaria has filed this Original Application seeking a direction to the respondents to grant permission for medical examination to the applicant for getting an opportunity of appointment to the post of ASM.

2. The case of the applicant is that he was undergoing a training for the post of Goods Guard at Zonal Training Centre Bhusawal during the period from 30.3.1992 to 14.5.1992. While he was under training another order came to be issued on 20.4.1992 by which he was communicated that he has been

selected for the post of ASM and the training for that post was scheduled to be held from 25.5.1992 at Zonal Training School, Bhusawal. The applicant was informed by his wife through a telegram dated 1.5.1992. The case of the applicant is that his wife informed the competent authority i.e. the Assistant Personnel Officer vide letter dated 8.5.1992 (Annexure-A-4) for doing the needful in the matter, but nothing was done in the matter and the applicant has been making number of representations to different authorities from time to time. He has neither been given a definite reply nor his grievance had been redressed so far.

3. On the contrary a detailed counter reply has been filed on behalf of the respondents, wherein the facts and grounds raised in the Original Application have been generally denied and a specific plea has been taken regarding the limitation and it has been specifically submitted that there is a delay of about 7 years in filing of the Original Application for which no condonation application has been filed.

4. We have heard the learned counsel of the parties and have carefully perused the records of this case.

5. It is the admitted position of the case that the cause of action in this matter has arisen to the applicant in the year 1992. Admittedly he has not made any representation to the concerned authority i.e. the D.R.M., Jhansi in the matter. Even if it is taken that he made a representation and he can get the concession of six months only, even then there is no provision of any such representation and as per the law laid down by the Constitution Bench of the Hon'ble Supreme Court in the case of S.S.Rathore Vs. State of Madhya Pradesh, AIR 1990 SC 10, the limitation cannot be extended by mere filing representation which are not provided by the law. Thus, the preliminary objection has force and the application is hopelessly barred by time. We have confirmed from the parties that no application for condonation of delay has been filed and question of explaining the delay does not arise.

Otherwise also the matter cannot be proceeded on merits in absence of the application for condonation of delay explaining the delay with good and substantial reasons thereof. The issue that a case cannot be heard on merits unless the delay is condoned and which cannot be condoned without a specific application, has been settled by the Hon'ble Supreme Court in the case of Ramesh Chandra Sharma Vs. Udhamp Singh Kamal, ATJ 2000 (1)SC 173. That was a matter of promotion and the case was decided on merits without there being an application for condonation of delay by the Tribunal. The order of the Tribunal was set aside by the Hon'ble Supreme Court with the observation that until there is an application for condonation of delay, the delay cannot be condoned.

6. In the premises and in view of the law laid down by the Hon'ble Supreme Court we are left with no option except to dismiss this OA on the ground of limitation itself without going on merits. The O.A. is accordingly dismissed, however, without any order as to costs.

J.K. Kaushik
(J.K.Kaushik)
Judicial Member

Chintanayya
(R.K.Upadhyaya)
Administrative Member.

rkv.

पूछांकन सं. ओ/व्या..... जवलपुर, दि.....
 परिवित्रियि इसके लिए:-
 (1) लालिक, उत्तराखण्ड राज्य विद्यालय, जवलपुर
 (2) अधिकारी, विद्यालय, जवलपुर
 (3) उत्तराखण्ड राज्य विद्यालय, जवलपुर
 (4) उत्तराखण्ड राज्य विद्यालय, जवलपुर
 सूचना एवं अदरक्षक कार्यवाही देख
 ग्रन्थालय
 1.5.03