

3

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

30.08.2011

OA No. 377/2011 with MA 237/2011

Mr. Dilip Singh, Proxy counsel for
Mr. Ashok Bansal, Counsel for applicant.

On the request of the proxy counsel appearing on
behalf of the applicant, put up on 01.09.2011.

Anil kuma
(ANIL KUMAR)
MEMBER (A)

K.S. Rathore
(Justice K.S. Rathore)
MEMBER (J)

AHQ

[Signature]

1-9-2011

Mr. Ashok Bansal, Counsel for applicant

Heard. The OA is disposed of

by a separate order

Anil kuma
(Anil kumar)
M (A)

K.S. Rathore
(Justice K.S. Rathore)
M (J)

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 1st day of September, 2011

Original Application No.377/2011

With MA No.237/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Karan Singh Meena
s/o Shri Ram prasad Meena,
r/o VPO Kakraua, Tehsil Rupbas,
Distt. Bharatpur.

.. Applicant

(By Advocate, : Shri Ashok Bansal)

Versus

1. The Union of India
Through its Secretary ,
Ministry of Railways,
New Delhi.
2. Director General,
Railway Protection Force,
Ministry of Railways,
Rail Bhawan,
New Delhi.

.. Respondents

(By Advocate:)

ORDER (ORAL)

The present OA is directed against the order dated 8.6.1999 (Ann.A/1) by which services of the applicant have been terminated. Admittedly, the order issued by the respondents on 8.6.1999 has been challenged by way of filing the present OA on 12.08.2011 alongwith a Misc. Application No.237/11 seeking condonation of delay.

2. We have perused the application for condonation of delay in filing the OA first in view of the ratio decided by the Hon'ble Supreme Court in the case of D.C.S.Negi vs. Union of India and ors., in SLP (Civil) No.7956/2011 dated 7.3.2011.

3. In this Misc. Application, the applicant has only given explanation for seeking condonation of delay that the applicant submitted representation and met the authorities concerned time and again for resolving his grievance but nothing was done by the respondents. The applicant continuously making representations and lastly he also filed a review application which was also not decided by the respondents and ultimately the applicant has been compelled by the respondents to prefer this OA and thus some delay has been caused in filing the OA, but the delay in filing the OA is neither intentional nor deliberate. The applicant failed to refer when the representation has been made and



upon perusal of the OA on merit, it reveals that vide Ann.A/6 first representation by wife of the applicant has been filed to the railway department only on 11.11.2008 and no representation whatsoever has been placed on record by the applicant to show his bona-fide intention. Another representation addressed to the Director General, Railway Protection Force was filed on 9th February, 2009 that too after a lapse of more than 10 years. Further, the applicant has failed to explain the day today delay and thus we are not satisfied with the reasons assigned by the applicant in the Misc. Application for condonation of delay. Hon'ble Supreme Court in the case of D.C.S. Negi (supra) on the point of limitation observed as under:-

"..... A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3).

In the present case, the Tribunal entertained and decided the application without even advertng to the issue of limitation. Learned counsel for the petitioner tried to explain this omission by pointing out that in the reply filed on behalf of the respondents, no such objection was raised but we have not felt impressed. In our view, the Tribunal cannot abdicates its duty to act in accordance with the statute under which it is



established and the fact that an objection of limitation is not raised by the respondent/non-applicant is not at all relevant....."

As per the above observations, we have examined the question of condonation of delay first prior to entering into merit of the case and, as discussed hereinabove, the applicants utterly failed to explain the inordinate delay, as such, the same cannot be condoned.

4. Thus, not only the Misc.Application deserves to be dismissed in view of the ratio decided in the case of D.C.S. Negi (supra) but also the OA having no merits. As such, the Misc. Application for condonation of delay and the OA being devoid of merit are dismissed at admission stage.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K.S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/