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THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

Original

APPLICATION NO.: 394/2011 With M/A 251/2011

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

OA 394/2011 With M/A 251/2011

06/09/2011

Mr. Ambroish Vashistha, Counsel for
applicant.

Heard.

The O.A. and M.A. are disposed
of by a separate order on the
separate Sheets for the reasons
recorded therein.

Anil Kumar

[Anil Kumar]

M (A)

K. S. Rathore

[Justice K.S. Rathore]

Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 6th day of September, 2011

**Original Application No.394/2011
With MA No.251/2011**

CORAM:

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

S.K.Sinsinwar
s/o late Kirori Lal Jat,
r/o Q.No.5, P&T Colony,
Rajendra Nagar,
Bharatpur at present in
BSNL office, Bharatpur.

.. Applicant

(By Advocate: Shri Ambrish Vashistha)

Versus

1. Union of India through
Assistant Director General,
Personnel-III,
10th Floor, Statesman House,
B-148, Bara Khambha Road,
New Delhi.
2. Chief General Manager (Telecom),
Sardar Patel Marg,
C-Scheme,
Jaipur.
3. General Manager,
Office of GMTD BSNL,
Krishna Nagar,
Bharatpur.

4. Girish Kumar Sharma,
Sr. TOA (G), Office of GMTD BSNL,
Krishna Nagar, Bharatpur.

.. Respondents

(By Advocate:

O R D E R (ORAL)

This is second round of litigation. Earlier also, the applicant has preferred OA No.541/2010 with MA No.345/2010 before this Tribunal and the same was dismissed as withdrawn with liberty reserved to him to file substantive OA for the same cause of action.

2. The present OA has been preferred against the impugned order dated 7.4.2006 (Ann.A/1) by which on successful completion of six weeks training w.e.f. 20.2.2006 to 31.3.2006 at CTTC, Jaipur, S/Shri Rakesh Kumar, Girish Kumar Sharma and Shri Dinesh Chand Sarswat have been given posting at Kaman, Roopbas and Roopbas respectively and name of the applicant does not figure in the order impugned dated 7.4.2006.

3. The applicant preferred this OA after a delay of more than 5 years. In this regard, the applicant has also preferred a Misc. Application under Section 5 of the Limitation Act, 1993 for seeking condonation of delay. We have carefully perused



the averments made in the Misc. Application for condonation of delay. It is not disputed that the order dated 7.4.2006 is under challenge before this Tribunal. In para-3 of the Misc. Application, the applicant has stated the reason for seeking condonation of delay that the applicant was absolutely having no knowledge at all about limitation of filing this OA, so the delay on the part of the applicant to file this OA after such a delayed stage is bonafide and without having legal knowledge of limitation. We are not impressed with the reason given in the Misc. Application for condonation of delay and the applicant had utterly failed to explain the day to day delay and thus the fact remains that the order impugned passed on 7.4.2006 has been assailed by the applicant in August, 2011.

4. 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 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 adverting 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....."

5.. In view of the aforesaid, in our considered view, the OA deserves to be dismissed not only on merit but also on the ground of delay and latches in view of the ratio decided by the Hon'ble Supreme Court in the case of D.C.S. Negi (supra). Consequently, the OA as well as MA for condonation of delay are dismissed at admission stage.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K. S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

R/