

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

10

ORDERS OF THE BENCH

04.08.2011

OA No. 49/2011 with MA 43/2011

None present for the parties.

Put up on 14.09.2011. In the meanwhile, the respondents may file their reply.

Anil Kumar,
(ANIL KUMAR)
MEMBER (A)

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

AHQ

30000

8

14/09/2011 (14/09/2011)

OA No. 49/2011 with M.A. No. 43/2011

None present for the parties.

The O.A. and M.A. are dismissed by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
[Anil Kumar]
Member (A)

K.S. Rathore
[Justice K.S. Rathore]
Member (J)

20000

Notices not
issued in the
OA & MA
Reply not filed to
MA (K.S.)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**ORIGINAL APPLICATION NO. 49/2011
WITH
MISC. APPLICATION NO. 43/2011**

DATE OF ORDER: 14.09.2011

CORAM

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Madan Lal Meena S/o Shri Ram Khilidi Meena, aged about 44 years, R/o Railway Quarter No. 751-B, T.R.D. Railway Colony, Gangapur City, at present employed on the post of Technician Grade-I, under Senior Section Engineer (TRD), Gangapur City, Western Central Railway, Kota Division.

...Applicant

None present for the applicant.

VERSUS

1. Union of India through General Manager, Western Central Railway, Jabalpur, M.P.
2. Divisional Personnel Officer (Estt.), Western Central Railway, Kota Division, Kota, Rajasthan.
3. Assistant Personnel Officer (Electric) (Estt.), Western Central Railway, Kota Division, Kota, Rajasthan.

...Respondents


None present for the respondents.

ORDER (ORAL)

On 29.04.2011, notices were issued to the respondents on the Misc. Application No. 43/2011 for seeking condonation of delay in filing the Original Application No. 49/2011.

2. None appeared on behalf of the applicant even in the second round. We have examined the Misc. Application filed by the applicant for seeking condonation of delay in filing the Original Application.

3. It is admitted fact that the Original Application is directed against the order dated 30.06.2009 (Annexure A/2) passed by the respondents. The ground for seeking condonation of delay



in filing the present Original Application taken in the Misc. Application is that the order dated 30.06.2009 was not circulated and was not brought to the notice of any employee despite clear-cut instruction contained in the said order, who have appeared in the written examination. Even the copy of the said order was not affixed on the notice board. Apart from this, even in the subsequent notification, there is no reference of order dated 30.06.2009. The applicant was never intimated about cancellation of written test. Therefore, there is a delay of about 7 months in filing the present Original Application, as the Original Application was required to be filed within one year from the date of passing of the impugned order.

4. The applicant, for the reasons stated above, could not file the Original Application within the stipulated period, and filed the same after a delay of about 7 months.

5. We have perused the grounds and the explanation given by the applicant in the Misc. Application for condonation of delay in filing the Original Application, but we find no cogent explanation or reason in this Misc. Application.

6. The Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Ors.** [Special Leave to Appeal (Civil) No. 7956/2011 has 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 advertg 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."

In view of the observations made by the Hon'ble Supreme Court, the Tribunal ought to have examined the question of limitation first prior to entertaining the Original Application, and then to proceed further to decide the application.

7. We are of the considered view that no sufficient cause is shown in the Misc. Application for seeking condonation of delay in filing the Original Application, and as such the Misc. Application deserves to be dismissed, and accordingly the Misc. Application for seeking condonation of delay is dismissed.

8. Consequently, in view of the ratio decided by the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Ors.** (supra), the present Original Application cannot be entertained and decided on its merit, as the same is barred by limitation, and the Original Application deserves to be dismissed. Accordingly, the Original Application stands dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K. S. Rathore

(JUSTICE K.S. RATHORE)
MEMBER (J)