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**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

17.04.2012

OA No. 205/2012 with MA 105/2012

Mr. P.N. Jatti, Counsel for applicant.

Heard. The OA as well as MA are disposed of by a separate order.

Anil Kumar

(Anil Kumar)
Member (A)

K.S. Rathore

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 17th day of April, 2012

ORIGINAL APPLICATION No. 205/2012

With
MISC. APPLICATION NO. 105/2012

CORAM :

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

Mahaveer Prasad Sharma son of Shri Kedar Mal Sharma by caste Sharma, aged about 50 years, resident of Vilage and Post Sarang, Tehsil Sarang District, Ajmer. Presently working as Branch Post Master (GDS) Sarang (Nasirabad), Rajasthan.

... Applicant
(By Advocate : Mr. P.N. Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Postmaster General, Southern Region, Ajmer.
4. Superintendent Post Offices, Beawar Division, Beawar.

... Respondents
(By Advocate : -----)

ORDER (ORAL)

This being the third round of litigation. Earlier also the applicant has filed OA No. 148/2008, which was disposed of vide order dated 14.08.2008 and in view of the order passed by this Tribunal, the respondents have passed the impugned order 21.08.2009 and the same has been challenged by the applicant by filing another OA No. 348/2009 and the same was disposed of vide order dated 06.01.2011 as the applicant submits that his



representation has been decided and if need be, he may challenge the validity of the order dated 21.08.2008 by filing substantive OA.

2. The applicant has preferred this OA and from the perusal of the material available on record, it appears that the applicant has challenged the order dated 21.08.2009 as liberty was given to the applicant by this Tribunal in OA No. 348/2009 vide order dated 06.01.2011.

3. The applicant has also filed an MA No. 105/2012 for seeking condonation of delay in filing the present OA. From perusal of the MA, we find that no reason has been mentioned in the MA to condone the inordinate delay in filing the present OA and the applicant has utterly failed to explain the day to day delay. In our considered view we find no reason to condone the delay of about two and a half years.

4. The Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others** decided on 07.03.2011 [Petition for Special Leave to Appeal (Civil) 7956/2011] held that:-

"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:-

"21. Limitation.-



(1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as it mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

(14)

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 clause (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)."

5. Consequently, in view of the judgment of the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others**, we are of the view that the Misc. Application for seeking condonation of delay deserves to be dismissed. Since inordinate delay has not condoned, the OA also deserves to be dismissed on account of delay & latches. Even otherwise also we find no merit in the OA.

6. Accordingly, the OA as well as MA are dismissed with no order as to costs.

Anil Kumar

(Anil Kumar)
Member (A)

AHQ

K. S. Rathore

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