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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 06.07.2012

OA No. 236/2012

None present on behalf of the applicant even in the second round.

We have perused the pleadings as well as documents available on record.

O.A. is 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)

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 236/2012

DATE OF ORDER: 06.07.2012

CORAM

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

Barnard Able S/o Able Alfance, by caste Christian, aged 58 years, R/o Quarter No. 826A, old colony, Kota, presently working as Luhar Grade-I in the office of Senior Section Engineer Signal North Kota Division Kota.

...Applicant

None present for the applicant.

VERSUS

1. Union of India through General Manager, West Central Railway, Jabalpur (MP).
2. Senior Divisional Signal and Telecom Engineer, West Central Railway, Kota Division, Kota.
3. Shaukat Ali Khan, Luhar Grade-I, Signal and Telecom Department, Kota Division, West Central Railway, Kota.
4. Samandar Singh, MCF Department of Telecom and Signal Kota Division, Kota.

...Respondents

ORDER (ORAL)

The applicant has filed the present Original Application praying that the applicant be declared to have been promoted on the post of Hammer-man Grade-I (*Luhar* Grade-I) with effect from the date his junior i.e. respondent no. 3 had been promoted with all consequential benefits of seniority, pay fixation and arrears of salary with interest @ 18% per annum. He further prayed that the seniority of the applicant be corrected vis-à-vis the respondent no. 3 and 4 and be given further promotions on that basis on the post held by them.



2. Admittedly, promotions of the respondent nos. 3 & 4 are under challenge in the present Original Application, which is of way back of the year 1991, and this Original Application has been preferred by the applicant at this belated stage and even without filing the Misc. Application for seeking condonation of delay in filing the Original Application.

3. In the interest of justice, we had advised the applicant on 17.04.2012 and gave opportunity to file Misc. Application for seeking condonation of delay in filing the Original Application. On 18.05.2012, we had provided further opportunity to the applicant to file Misc. Application for the purpose. Till today (i.e. 06.07.2012), no such Misc. Application for seeking condonation of delay in filing the Original Application has been filed on behalf of the applicant.

4. It is no doubt that the present Original Application has been filed by the applicant after an inordinate delay and that too without showing sufficient cause for not making the application within the prescribed period of limitation as per Section 21 of the Administrative Tribunals Act, 1985, and the applicant has not filed any separate application for condonation of delay despite granting him sufficient opportunity for filing such application.

5. The Hon'ble Apex 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

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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 advertent 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 abdicate 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....."

6. Thus, in view of the ratio decided by the Hon'ble Supreme Court in the case of D.C.S. Negi (supra), the present Original Application deserves to be dismissed on the ground of delay and laches.

7. Consequently, in view of the above, the present Original Application stands dismissed without issuing notice to the respondents. There shall be no order as to costs.

Anil Kumar

(ANIL KUMAR)
MEMBER (A)

K. S. Rathore

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