

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

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ORDERS OF THE BENCH

Date of Order: 30.05.2012

OA No. 386/2012

Mr. S.K. Jain, counsel for applicant.

At the request of learned counsel for the applicant, put up the matter on 01.06.2012.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

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

Kumawat

OA 386/2012 with MA 177/2012

Mr. S.K. Jain, counsel for applicant.

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

Anil Kumar
(Anil Kumar)
M (A)

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 1st day of June, 2012

Original Application No.386/2012

With MA No.177/2012

CORAM:

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

T.R.Verma
s/o Shri Kishan Lal Verma,
aged 67 years,
r/o A-79, Malviya Nagar,
retired IAS officer Raj.

.. Applicant

(By Advocate,: Shri S.K.Jain)

Versus

1. The Union of India
Through Secretary,
Ministry of Personnel, Public Grievances
and Pension,
Department of Personnel and Training,
Government of India,
New Delhi.
2. State of Rajasthan
Through Secretary,
Departmental of Personnel,
Government of Rajasthan,
Secretariat, Jaipur

.. Respondents

(By Advocate:

ORDER (ORAL)

In the present OA, the applicant has prayed for direction to the respondents to quash the impugned chargesheet dated 29.6.2004 and the order of appointment of the Enquiry Officer vide order dated 11.9.2007 along with the enquiry pending against the applicant.

2. The applicant has also filed a Misc. Application No. 177/2012 for condonation of delay. We have first perused the averments made in the Misc. Application for condonation of delay 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 7.3.201. In the application for condonation of delay the applicant has not even given any reason or explained the circumstances under which he could not challenge the chargesheet dated 29.6.2004 or the order dated 11.9.2007 appointing the Enquiry Officer within the period of limitation provided under the rules. While dealing the issue of limitation, the Hon'ble Supreme Court in the case of D.C.S. Negi (supra), 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....."

3. In view of the above observation, we have examined the question of condonation of delay first prior to entering into merit of the case and, in our considered view, the applicants utterly failed to explain the inordinate delay, as such, the same cannot be condoned and the Misc. Application deserves to be dismissed.

4. Since we are not satisfied with the applicant on the point of limitation, as such, the Misc. Application for condonation of delay is dismissed and consequently, the OA is also liable to be dismissed as hopelessly time barred.

5. Accordingly, the OA as well as MA both are dismissed at admission stage.

Anil Kumar
(ANIL KUMAR)
Adm. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/