

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

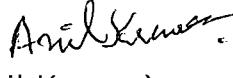
16.12.2013

OA No. 812/2013

Mr. Nand Kishore, Counsel for applicant.

Heard the learned counsel for the applicant. The OA is dismissed by a separate order.


(Arvind Rohee)
Member (J)


(Anil Kumar)
Member (A)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 812/2013
WITH
MISC. APPLICATION NO. 417/2013

Jaipur, the 16th December, 2013

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISITRATIVE MEMBER
HON'BLE MR. A.J. ROHEE, JUDICIAL MEMBER

Jagannath Meena son of Shri Ram Sahai Meena, aged about 56 years, Pointsman-A (Kantawala), Govindwari Ex-Northern Railway now N.W.R. resident of Village Shekhawala, Post Nabhwala, Tehsil Jamwaramgarh, District Jaipur.

... Applicant

(By Advocate: Mr. Nand Kishore)

Versus

1. Union of India through General Manager, North Western Railway, Jawar Circle, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jodhpur.
3. Divisional Operating Manager, North Western Railway, Jodhpur.

... Respondents

(By Advocate: -----)

ORDER (ORAL)

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

The applicant has filed this OA praying for the following reliefs:-

- "(i) The action of the respondents for removing the applicant from service w.e.f. 21.12.1999 may be declared arbitrary, bad in law and quashed and set aside.
- (ii) The respondents may kindly be directed to take the applicant on duty with all consequential benefits.
- (iii) The respondents may further be directed to adjust the due leave of the applicant against the absence and make the payment of said period.
- (iv) Any other direction and orders, which are deemed proper in the facts and circumstances of the case may kindly be allowed to the applicant.
- (v) Cost of the OA may kindly be allowed to the applicant."

Anil Kumar

2. By way of this OA, the applicant is challenging the impugned order dated 21.12.1999 by which the applicant was removed from service. The applicant has filed an MA No. 417/2013 for seeking condonation of delay as the aforesaid impugned order dated 21.12.1999 (Annexure A/1) has been challenged after a delay of more than fourteen years. We have carefully perused the OA as well as the MA for condonation of delay, but we are not satisfied with the reasons given by the applicant for the delay. The applicant has not been able to show sufficient cause as to why this OA has been filed with this inordinate delay of 14 years.

3. 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

Avinil Kumar

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."

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)."

4. The present OA has been filed after about 14 years of impugned order dated 21.12.1999. The applicant has not been able to show sufficient cause as to why this OA has been filed after such

Anil Kumar

inordinate delay. Therefore, 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 and the OA also deserves to be dismissed on account of delay & latches.

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



(A.J. Rohee)
Member (J)

AHQ



(Anil Kumar)
Member (A)