

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Misc. Delay Condonation Application No. 330/00473 of 2018

In

Misc. Execution Application No. 330/00474 of 2018.

In

Original Application No. 1468 of 2007

Dated: This the 05th day of October 2018.

PRESENT:

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Phool Chand Pal, aged about 43 years, S/o Late Moti Lal, R/o 179,
Uttari Lokpur, Naini, Allahabad.

. . . Applicant

By Adv: Shri Sameer Srivastava

V E R S U S

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Chief Engineer, Head Quarter, Eastern Command, Engineering Branch Fort William, Calcutta.
3. Chief Engineer, Shilong Zone, Spread Eagle Falls, Shilong.
4. Commander Work Engineer, (C.W.E.) Tezpur, Asam.
5. Garrison Engineer, 859, Engineering Works Section, C/o 99 APO.

. . . Respondents

By Adv: Shri L.P Tiwari/Shri Himanshu Singh

ORDER

1. Applicant seeks condonation of delay in filing the application for execution of the order dated 10.12.2010 passed by the

Tribunal in OA No. 1468 of 2007 titled Phool Chand Pal Vs. Union of India and others. The execution application along with the Application for condonation of delay was filed on 27.2.2018. In the Delay Condonation Application, it is mentioned that an appeal was filed by the respondents of the O.A. in the Hon'ble High Court against the order dated 10.12.2010 wherein there being a difference of opinion of the two Hon'ble Judges, matter was referred to a third Hon'ble Judge and when the matter came up before the Hon'ble Bench, the same was dismissed on 30.10.2011 for want of prosecution due to absence of respondents (of O.A.). The instant application has been filed on 27.2.2018.

2. It is further case of applicant that since the matter could not get restore, the applicant filed contempt application in this Tribunal wherein respondents were directed vide order dated 30.7.2015 to comply with the order dated 10.12.2010 or appear in person. This order dated 30.7.2015 was challenged in the Hon'ble High Court and the order was stayed by the Hon'ble High Court vide order dated 21.9.2015.
3. It is now the specific averments of the applicant that "Based upon the interim order dated 21.9.2015 the pending contempt petition was get dismissed by this Tribunal vide order dated 28.9.2015".
4. On the dismissal of contempt petition, despite efforts of applicant the writ petition in the Hon'ble High Court remained pending due to high pendency of fresh cases and therefore, in February, applicant's Advocate advised him to file an execution application as no stay order is operating against the order dated 10.12.2010 and in these circumstances, the delay has been caused in filing the present execution application. The delay is not deliberate but due to unavoidable

circumstances beyond the control of the applicant and the same is liable to be condoned by the Tribunal.

5. In the counter affidavit filed by respondents, it has been averred that the application is barred by period of limitation of one year as per Section 21 of Central Administrative Tribunals Act, 1985 and there being a delay of 7 years in filing the execution application without any cogent or compelling ground to condone the delay, the application is liable to be rejected.
6. Heard counsel for the parties and considered the arguments of counsels and also gone through the pleadings on record.
7. It may be noticed that proceeding under Contempt of Court Act 1971 and execution application filed under section 27 of Central Administrative Tribunal Act, 1985 are two separate proceedings. The former proceeding is concerned with punishing the person responsible for violating the order of the Court and the later is meant for implementing the orders of the Court. Therefore, both the proceedings are dealing with separate subject and are not interlinked with each other so far as the relief sought in the two proceedings is concerned. Therefore, there was no impediment in filing the execution application by the applicant at any time within the four corners of legal provisions.
8. Even so, looking to the averments made in the Delay Condonation Application, no good ground has been mentioned therein to condone the delay, if at all permissible under law. The only explanation being given by the applicant for the delay is in para 9 of the Delay Condonation Application which reads as "That under the circumstances, some delay has been caused in filing of the present execution application. The delay is not deliberate, but due to some unavoidable

circumstances, which were beyond control of the answering respondents; as such same is liable to be condoned by the Hon'ble Court".

9. Looking to the contents of the application, it is clear that no good ground or sufficient cause has been shown in the application to condone the delay in filing the Execution Application.
10. Learned counsel for the applicant has placed on record order dated 29.8.2017 in Execution Application No 01/17 wherein the delay in filing the execution was condoned. However, the order mentions that no written objection has been filed on behalf of respondents and considering the facts and circumstances, the delay in filing the execution application was condoned. This order does not help the applicant in any manner whatsoever.
11. On the other hand, learned counsel for the respondents has placed reliance on **Hukam Raj Khinvsara Vs. Union of India and others reported in (1997) 4 Supreme Court Cases 284** and submitted that the execution application has been filed much beyond the period of one year as per the provisions contained in Sections 20 (2), 21 (1) (a) and 27 of the Central Administrative Tribunal Act, 1985 is liable to be dismissed as the same is barred by period of limitation.
12. In Hukam Raj Khinvsara (supra), the Hon'ble Apex Court held that –
 - "8. Thus it could be seen that the final order passed by the Tribunal is executable under section 27 of the Act within one year from the date of its becoming final. Admittedly, the final order was passed on 13.3.1992. Consequently, the appellant was required to file the execution application within one year from the said date unless the order of the Tribunal was suspended by this Court in a

special leave petition/appeal which is not the case herein. Admittedly, the application came to be filed by the appellant on 13.12.1994 which is well beyond one year. Under these circumstances, the Tribunal was right in its conclusion that the application was barred by limitation"

13. Looking to the facts and circumstances of the case as discussed above and the law laid down by the Hon'ble Apex Court, I am of the opinion that no good ground or sufficient has been made out by the applicant to condone the delay in filing the execution application. Accordingly, application for condonation of delay and execution application are dismissed. No costs.

(RAKESH SAGAR JAIN)
MEMBER (J)

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