

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Orders reserved on : 13.4.2018

Orders pronounced on : 17.4.2018

Hon'ble Dr. Murtaza Ali, Member (J)

MA No.330/351/2018 & MA NO.330/352/2018

IN

O. A. No.330/1253/2014

Shaheen Fatima w/o late Sri Mustaques Ahmad (TS) (UPOJA-D.0167 TS APGD of HEQ Alld.

*S/o Sri Rasool Ahmad, 41, Dondipur,
District - Allahabad.*

..... *Applicant*

(By Advocate : Shri S.K. Kushwaha)

Versus

1. *Union of India through Secretary Post and Telecommunication Department, Govt. of India, New Delhi.*
2. *Post Master General Manager, Head Post Office, Allahabad.*
3. *Senior Supdt. of Railway Mail Service-A, DM (Allahabad Division), Allahabad.*
4. *Head Record Officer, R.M.S., Allahabad Division, Allahabad.*

..... *Respondents*

(By Advocate : Shri Arvind Singh)

ORDER

MA No.330/351/2018 & MA NO.330/352/2018

Heard Shri S.K. Kushwaha, learned counsel for the applicant, and Shri Arvind Singh, learned counsel for the respondents on Delay Condonation Application as well as Restoration Application.

2. The applicant has filed Misc. Delay Condonation Application No.351/2018 as well as Restoration Application NO.352/2018 for condoning the delay and recalling the Order dated 31.03.2016 passed in OA 1253/2014.

3. Respondents have also filed objections to the said Applications.

4. In the Delay Condonation Application, it has been stated that the applicant had filed OA for grant of family pension as her husband had died on 29.07.2012. She had executed Vakalatnama in favour of Smt. Shikha Singh and N. Rufi, advocates but they did not inform the progress of her case. She came to know about the dismissal of her aforesaid OA when she reached the office of CAT and contacted Shri S.K. Kushwaha, Advocate, who apprised her that her OA was dismissed in default on 31.03.2016 and no restoration application has been filed by her earlier counsels. It has been submitted that delay in filing the restoration application is bonafide and the applicant should not be allowed to suffer for the negligence of her earlier counsels.

5. In the objections filed on behalf of the respondents, it has been alleged that serious allegations have been levelled by the applicant against her earlier counsels to seek sympathy of the Court. It has been stated that Delay Condonation Application as well as Restoration Application are liable to be dismissed by this Tribunal.

6. It appears that husband of the applicant had died on 29.07.2012 and the applicant had filed OA No.1253/2014 on 22.9.2014 seeking family pension. The respondents had filed

their counter affidavit on 18.03.2016 and on the next date of listing, i.e., 31.03.2016, when no one appeared on behalf of the applicant, the said OA was dismissed in default and for non-prosecution. Restoration Application along with Delay Condonation Application has been filed on behalf of the applicant on 13.2.2018. It appears that there was no negligence on the part of the applicant and she could not be held responsible for the negligence of her earlier counsels. Relying upon the Order dated 19.03.2018 passed by this Tribunal in OA No.330/137/2012, I am of the view that the delay is liable to be condoned as the grounds mentioned in the accompanying affidavit are sufficient for non-appearance of applicant on the date fixed. Hence, Delay Condonation Application No.351/2018 and Restoration Application No.352/2018 are allowed. Accordingly, the Order dated 31.03.2016 passed in OA 1253/2014 is recalled and the OA is restored to its original number.

OA 1253/2014

The applicant may file rejoinder within three weeks.

List it on 4.7.2018.

**(Dr. Murtaza Ali)
Member (J)**

/ravi/