

(Open Court)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

(THIS THE 04th DAY of **October, 2018**)

**HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A)
HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)**

Civil Misc. Delay Condonation Application No. 4210/2016

With

Civil Misc. Review Application No. 330/00053/2016

1. Union of India through its Secretary, Ministry of Communication & Information Technology, Govt. of India at New Delhi.
2. Senior Superintendent of Post Offices, Jhansi Division, Jhansi – 284001.
3. Assistant Director, Agra Region, Agra (U.p.).

..... Applicants

V E R S U S

Dinesh Dixit, GDS BPM, S/o Sri Ram Dutt, Damras (Madaripur), District Jalaun (U.P.) .

..... Respondent

In

Original Application No. 381 of 2016

Dinesh Dixit Applicant

V E R S U S

Union of India and Others Respondents

**Advocate for the Applicants :- Shri D.C. Mishra
Advocate for the Respondent:- Shri M.K. Yadav**

O R D E R

Delivered by Hon'ble Mr. Gokul Chandra Pati, Member (A)

The instant Review Application (in short RA) has been filed by the applicants (respondents in OA) against the order dated 17.08.2016 passed by this Tribunal in OA No. 330/00381/2016 (Dinesh Dixit Vs. U.O.I. & Ors) by which the O.A. was allowed in following terms: -

“Heard Shri Ajay Sengar, counsel for the applicant and Dr. R. Tripathi, counsel for respondents.

2. It appears that inspite of efforts made by learned counsel for the respondents, the respondents are not cooperating. Apparently, we have taken this matter on several dates. It appears that the respondents are not cooperating in giving instructions to file reply. Therefore, was are hearing this matter ex parte on the part of the respondents.

3. The applicant will be reinstated back in service and for the said period he will be paid salary.

4. Accordingly, the OA is allowed with cost of Rs. 500/-”.

2. The main grounds raised in the RA to review the order dated 17.08.2016 of this Tribunal is that this order has been passed against the respondents in absence of counter affidavit. The review application has also mentioned the details of the status of the proceedings against the applicant in the OA. From the records, it is clear that the impugned order dated 17.08.2016 was passed in presence of the respondents' counsel and after taking note of the fact that no reply was filed by the respondents in the OA in spite of time being allowed on several dates. The grievance of the applicant was against the order dated 29.02.2016 by which the applicant was placed on put off duty under rule 12 of the GDS (Conduct and Engagement) Rules, 2011.

3. On perusal of the records of OA No. 381/2016 filed by the applicant, it is seen that vide order dated 01.06.2016, the respondents were directed as under: -

“.....Learned counsel for the respondents submits that he has received the instructions. He is directed to file a short counter affidavit within two weeks and explain the status of the applicant whether order of put off duty extended or not”

4. Vide order dated 03.08.2016, since the short CA was not filed by the respondents, following direction was given: -

“.....Learned counsel for the respondents prays for and is granted 2 weeks further time as a matter of last opportunity to file short counter affidavit, in case, short counter affidavit is not filed, the Court will hear the interim relief.”

5. On 17.08.2016, it was seen that in spite of last opportunity given to the respondents, the short counter affidavit was not filed and accordingly, the impugned order dated 17.08.2016 was passed.

6. It is seen from the above, the respondents were given adequate opportunity to file short counter affidavit and vide order dated 03.08.2016, last opportunity was given to the respondents to file the same, but it was not filed by the respondents. Hence, the matter was heard finally on 17.08.2016 in presence of the counsel for the applicant as well as for the respondents, before passing the order dated 17.08.2016. It is noticed that under rule 16 of CAT (Procedure) Rules, 1987, this Tribunal is competent to pass an appropriate order even in absence of the respondents. In this case, the OA was heard on 17.08.2016 and the order was passed without the short counter affidavit, which the respondents have failed to file in spite of reasonable opportunity granted for the same, as discussed above.

7. In view of the above, we are of the considered view that the grounds mentioned in the review application are not tenable in the light of the Order 47 of CPC and Section 22(3) (f) of the Administrative Tribunals Act, 1985. Accordingly, the Review Application is dismissed.

MEMBER (J)

MEMBER (A)

Anand...