

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**M.A. No.1012/2017 in
O.A No.960/2017**

**Reserved On:07.11.2017
Pronounced On:10.11.2017**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

1. Kaushalya Devi
D/o Late Shri Rampat Goel,
R/o A-15, Nav Rachna Aptt.
East Arjun Nagar, Shahdra,
Delhi-110032.
2. Srikrishan Verma
S/o Late Shri Bindeshwari Parsad
R/o F-344, Gali No.23,
Sadh Nagar Palam Colony,
New Delhi-110045.

..Applicants

(By Advocates : Shri A.K. Mishra for Shri Amit Pandey)

Versus

1. Bharat Sanchar Nigam Limited
Through its Chairman/Managing Director,
Bharat Sanchar Bhawan,
New Delhi.
2. Chief General Manager,
NTR, 2nd Floor, Kidwai Bhawan,
New Delhi.
3. General Manager (ESTT),
Bharat Sanchar Mathur Lane, Janpath,
New Delhi.
4. Union of India
Through Secretary,
Department of Post, Dak Bhawan,

New Delhi.

....Respondents

(By Advocate: Shri R.N. Singh)

ORDER

By Hon'ble Ms. Nita Chowdhury, Member (A)

MA No.1012/2017

This MA has been filed by the applicant praying for condonation of delay in filing the Original Application (OA). In the OA, applicant has impugned order dated 28.07.1994 and has filed the same on 07.03.2017. The OA has been filed seeking the following relief:-

- “(a) The respondents may kindly be directed to grant the promotion to the applicants with effect from 2000 on the post of Sr.TOA along with their batch mates with all consequential benefits.
- (b) Any further relief which this Hon'ble Tribunal deemed fit under the facts and circumstances of the case.
- (c) Cost of the application be paid to the applicants by the respondents”.

2. The applicants in this MA have stated that their OA is within limitation. They have further submitted that delay in filing the application was due to the reason that the representation was filed by the respondents after being aggrieved by the discriminatory nature and on the basis of representation the proceedings were going in the department which was started on 29.09.2011. Thereafter, they moved an application under RTI Act for seeking information about the departmental proceeding which was going on

in the department for considering the retrospective promotion for the post of Sr. TOA and which was supplied by the respondent on 31.10.2013. In this regard they have submitted that their case is fully covered by the decision given in OA No.1254/2014 – K.K. Yadav and Others Vs. BSNL and Others decided on 17.05.2016.

3. Applicants have further submitted that delay is neither intentional nor wilful, hence the same be condoned. Thus, delay of 4 years has occurred because of late information provided by the respondents. Hence, they have prayed that the delay be condoned and this MA be allowed.

4. The respondents have filed their reply to the MA and submitted that applicants have not given any detailed reason for delay what to talk of mentioning of good and sufficient reason for seeking condonation of delay. The reasons appear to have been made as afterthought and without any substantiating document or material therefor. They have thus prayed that the MA be dismissed.

5. We have heard the learned counsel for the parties and gone through the pleadings and the judgment of the Tribunal.

6. First of all, we may mention that the case of applicants is squarely covered by the judgment given by this Tribunal in OA No.1254/2014 (supra). Therein also point of limitation was taken

and the same was condoned and the OA was allowed. Moreover, on the point of limitation, Hon'ble High Court of Gujarat at Ahmedabad in the case of **Uttar Gurajart Vij Company Vs. Ghelabai Varvabhai Raval** in case No.C/CA/11343/2013 decided on 13.12.2013, has dealt in detail and considered various judgments of the Apex Court and held that **"if delay is not condoned, it would result into miscarriage of justice"**. The relevant parts of the said judgment read as under:-

"24 Moreover, at least in AIR 2008 SC 1688 Sinik Security Vs.Sheel Bai, AIR 2009 SC 2170 D.D. Vaishnav Vs.State of M.P. and AIR 2009 SC (Supp.) 195 Commissioner, Nagar Parishad, Bhilwara Vs.Labour Court, Bhilwara, the Apex Court has condoned inordinate delay (769 days, 589 days and 178 days respectively) even by imposing some costs upon the applicant.

25. In Collector, Land Acquisition, Anantnag Vs. Katiji AIR 1987 SC 1353, the Apex Court has held as under

—
Whereas atleast decision in O.P. Kathpalia Vs. Lakhmir Singh (Dead) & Ors. (supra) is by the three Judges bench of the Apex Court **wherein delay of more than 6 years was condoned observing that otherwise it would result into miscarriage of justice**. Therefore, when there is a judgment by the bench of three Judges of the Apex Court that to avoid miscarriage of justice, delay of even 6 years can be condoned and when the judgments referred above are yet not overruled or distinguished in any of the later judgment by the Bench of three Judges, only because

the Apex Court has not condoned the delay in some of the cited cases, it cannot be said that delay cannot be condoned in all cases after such judgments even if there is sufficient cause to condone the delay. Thus, in general, if there is sufficient reason to condone the delay, irrespective of the cited cases, delay can be condoned”.

7. In the interest of justice and in view of the judgment of the Apex Court quoted above, MA No.1012/2017 has to be allowed. Hence, in the interest of justice, the delay is condoned and MA No.1012/2017 is allowed, subject to payment of cost of Rs.1000/- to be paid by each of the applicant to the Delhi State Legal Services Authority.
8. On payment of the cost, the OA is ordered to be listed for hearing on 29.11.2017 before the appropriate Bench.

(Nita Chowdhury)
Member (A)

(V. Ajay Kumar)
Member (J)

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