

**Central Administrative Tribunal
Principal Bench
New Delhi**

**OA No.448/2012
MA No.4355/2017
MA No.2763/2018
MA No.359/2012**

This the 24th day of September, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Former Assistant Braham Pal Singh Gautam
through authorized Shashi Kant Mishra,
R/o D-15/209, Sector 3, Rohini,
New Delhi-110085.

Presently residing at 34, Ferndale Road,
Forest Gate, LONDON E-7 8JX.

... Applicant

(By Mr. Kuber Bodh, Advocate)

Versus

1. Union of India through Secretary,
Ministry of External Affairs,
Government of India,
Room 183 A, South Block,
New Delhi.
2. Joint Secretary (CNV & Chief Vigilance Officer),
Ministry of External Affairs,
South Block, New Delhi.
3. Ministry of Personnel, Public Grievances
& Pensions, Department of Pensioner & Pensioner's
Welfare, Loknayak Bhawan,
New Delhi.
4. Chairman,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi-11.

5. The High Commissioner,
 High Commission of India,
 LONDON through the Secretary, MEA,
 Government of India,
 New Delhi. ... Respondents

(By Mr. Ranjan Tyagi, Advocate)

O R D E R

Justice L. Narasimha Reddy, Chairman :

MA Nos.4355/2017 & 2763/2018

The OA was dismissed for default on 30.09.2016. MA No.4355/2017 is filed with a prayer to set aside the order of dismissal, whereas MA No.2763/2018 is filed for condonation of delay in filing MA No.4355/2017. It is stated that the applicant is residing abroad, and on account of the communication gap between himself and his advocate, he could not ensure proper representation when the case was taken up. The applications are opposed by the respondents. However, in view of the facts mentioned in the applications, we allow the same, and set aside the order dated 30.09.2018. The OA is restored to file.

OA No.448/2012

2. The applicant joined as Lower Division Clerk in the Ministry of External Affairs on 19.09.1978. He states that he

worked at the Diplomatic Mission, Kenya, and thereafter in the Indian High Commission at London. While working at that place in the year 1993, he joined the LL.M. course, and applied for six months' leave ex-India, but the leave was not sanctioned. In 1997, he made an application for voluntary retirement on completion of 20 years of service. The request was not acceded to, and five years thereafter, he submitted a letter of resignation on 15.02.2002. Repeated reminders are said to have been issued.

3. An order was passed on 04.02.2004 by the appointing authority, removing the applicant from service. Stating to be not being aware of that, the applicant was pursuing the remedies for acceptance of resignation and pensionary benefits, till the year 2011. This OA is filed challenging the order of removal. It is stated that the order was not preceded by any inquiry, and that it was passed at a time when his applications for voluntary retirement and resignation were pending.

4. The respondents filed a counter affidavit opposing the OA. It is stated that the OA is hopelessly barred by limitation, since it is filed seven years after the order of

removal. It is also stated that when the representation made by the applicant against the order of removal is pending, the OA is not maintainable.

5. We heard Shri Kuber Bodh, learned counsel for the applicant, and Shri Ranjan Tyagi, learned counsel for the respondents.

6. The OA itself is very cryptic and bereft of any relevant facts pertaining to the service of the applicant. Much of the OA is devoted to the narration of the events relating to submission of the applications for voluntary retirement and resignation.

7. The order of removal was passed way back in the year 2004. The applicant did not even file an application for condonation of delay. Even if it were to have been filed, one just cannot think of condoning delay of seven years. Therefore, the OA is liable to be dismissed on the ground of delay alone.

8. Though reliance is placed on the judgments of the Hon'ble Supreme Court in *Rafiq & another v Munshilal & another* [(1981) 2 SCC 788]; *State of Jharkhand & others v Jitendra Kumar Srivastava & another* [(2013) 12 SCC 210]; and

a judgment of the Delhi High Court in *Sanjay Kumar & another v Sita Rani Khanna & others* [2007 (98) DRJ 173], we are of the clear view that the ratio of those judgments cannot be applied to the facts of this case.

9. During the course of hearing, it has been brought to our notice that the applicant is settled in United Kingdom, and efforts made by the respondents to serve notices in the course of the disciplinary proceedings, did not fructify.

10. We do not find any basis to interfere with the impugned order, mainly on the ground of limitation. The OA is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/