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**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH**

Misc Application No.350/00447/2017

With

Original Application No.350/00756/2017

Date of Order: This, the 15<sup>th</sup> Day of September, 2017.

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER  
THE HON'BLE DR.(MS.) NANDITA CHATTERJEE, ADMINISTRATIVE MEMBER**

Shri Bhaskar Das  
Son of Smt. Annapurna Das  
By occupation:-unemployed  
Residing at 8, Nibedita Road  
North Purbachal, P.O: Haltu  
Kolkata-700 078.

.. Applicant

Vs

1. Union of India  
Service through the Chairman  
Central Board of Excise and Customs  
Norht Block, New Delhi-110 001.
2. Joint Commissioner of Customs  
(Personnel and Establishment)  
Customs House, Kolkata, 15/1  
Strand Road, Kolkata-700001.
3. The Commissioner of Customs (Administration)  
Customs House, 15/1, Strand Road  
Kolkata-700001.
4. The Chief Commissioner of Customs  
Customs House, 15/1, Strand Road  
Kolkata-700001.

... Respondents.

For the applicant: Mr.Tapan Bhanja

For the respondents:

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ORDER (ORAL)MANJULA DAS, MEMBER (J):

By this MA, the misc. petitioner prays for condonation of delay of 13 years in filing OA.no.350/00756/2017.

2. Mr.Tapan Bhanja, learned counsel for the misc. petitioner submitted that OA.350/00756/2017 has been filed praying for quashing the memorandum of charges dated 17.02.1998 (Annexure-3); penalty order dated 11.08.2000 passed by the appellate authority (Annexure-14); and revisional order dated 11.08.2003 and thereafter to deploy him in service and also to pay service benefits. Referring to para 4 in the MA learned counsel submitted that at the time of his dismissal from service, the misc. petitioner has no source of income to pursue before any legal forum and he was completely mentally exhausted for such purported action of the concerned authority. Learned counsel further submitted that on the similar charges though a criminal case was filed by the department, ultimately the learned court exonerated the misc. petitioner from the criminal proceedings, and accordingly, the misc. petitioner approached before the authorities to re-consider his case as he was exonerated from the criminal charges. Learned counsel further submitted that misc. petitioner has aged parents and two minor children and was unable to pursue the litigation. He has no intention on his part not



to proceed against the orders of dismissals from service but due to circumstances which were beyond his control he could not pursue the same within time. According to the learned counsel, in view of the above circumstances, there was a delay of about 13 years in approaching this Tribunal, and prayed for condonation of delay.

3. We have heard the learned counsel for the misc. petitioner and perused the documents placed on record. Section 21 of the Administrative Tribunals Act, 1985 provides for limitation of filing an OA as under:-

"21. Limitation -

(1) A Tribunal shall not admit an application, -

(a) in a case where a final order such as is mentioned in clause (a) of subsection (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months."

Further, sub-section 3 of Section 21 of the said Act, provides as under:-

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the



applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

In the case of **Bhoop Singh vs Union of India & Others, 1992 AIR**

**1414**, the Hon'ble Supreme court has observed as under:-

"... Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief."

4. We have noted that the misc. petitioner was sleeping over the matter for 13 years. The maxim 'vigilantibus, non dermientibus, jura sub-veniunt' (law assist those who are vigilant not those who are sleeping over their rights) is applicable in this case. We do not find any sufficient reason to condone the delay of 13 years, and in our opinion, the case is hopelessly barred by limitation. Accordingly, MA for condonation is dismissed.

5. Consequently, OA also stands dismissed.

(DR.NANDITA CHATTERJEE)  
ADMINISTRATIVE MEMBER

(MANJULA DAS)  
JUDICAIL MEMBER