

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. O.A. 350/00583/2014

Date of order: 19.01.2018

Present : Hon'ble Ms. Manjula Das, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Saifur Rahaman,  
Son of Late Samsuddin Sarkar,  
Aged about 41 years,  
Residing at Vill. Kokra, P.O. Khoksa,  
Dist. Uttar Dinajpur,  
Pin No. - 733 156.

.. Applicant

- V E R S U S -

1. The Chairman,  
Railway Recruitment Board,  
Malda, Kalibari Railway Colony,  
P.O. Jhaljhalia, Dist. Malda,  
Pin Code - 732 101.
2. The Assistant Secretary  
Railway Recruitment Board,  
Malda, Kalibari Railway Colony,  
P.O. Jhaljhalia, Dist. Malda,  
Pin Code - 732 101.
3. The Deputy General Manager (G)  
Cum Public Information Officer,  
Eastern Railway,  
Fairlie Place,  
17, Netaji Subhas Road,  
Kolkata - 700 001.

.. Respondents

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. B.L. Gangopadhyay, Counsel

**ORDER (Oral)**

**Per Dr. Nandita Chatterjee, Administrative Member:**

This application has been filed under Section 19 of the Administrative Tribunal Act, 1985 seeking the following relief:-

“(a) Office Order dated 17.12.2013 issued by the Respondent Authorities is not tenable in the eye of law and as such the same may be quashed.

(b) An order do issue directing the Respondent No. 1 to consider and dispose of the appeal dated 20.1.2014 made by the applicant at an early date.

(c) An order do issue direction the Respondents to supply the

applicant with a xerox certified copy of the answer sheet and 'key answer' at an early date.

(d) An order do issue directing the Respondents to transmit all the record pertaining to the case before this Hon'ble Court, so that perusal of same conscionable justice, may be administered.

(e) Costs and incidentals.

(f) Such further order/orders and/or direction/directions as Your Lordships deem fit and proper. ”

2. Ld. Counsel for the applicant and respondents are both heard. Records annexed with the application as well as with the reply are perused and examined.

3. Ld. Counsel for the applicant submitted that in response to one Joint Employment Notice being No. NTPC/ER/1/2007 dated 5.5.2007 vide which applications were invited by the Railway Recruitment Board Malda, Ranchi, Bhubaneswar and Kolkata for filling up of various posts in the Eastern Railway, the applicant had applied for selection of his candidature under the authority of Eastern Railway through Railway Recruitment Board, Malda.

That, the applicant was called to appear in the written examination which he duly attended on 9.12.2007, that is, the specified date.

That, although the results of the said examination was published on 26.5.2008, the name of the applicant did not figure in the same and hence the applicant applied through RTI on 3.6.2008 so as to obtain the details of marks secured by him as well as the highest and lowest scores of the successful candidates, reservation-wise. In response, he was informed that the process is yet to be finalised. The applicant thereafter preferred further applications under RTI Act, 2005 on 25.5.2010 and on 11.6.2010. In response, he was informed vide letter dated 14.6.2010 that 314 candidates had qualified against the OBC quota and that the cut-off marks against the OBC candidates was 208.65 and the applicant had secured 128 marks only.

That the candidate made further representations stating, inter alia, that as there were 34 vacancies, hence 10 times of vacancies i.e. 340 incumbents were to be shortlisted as against 314 candidates.

Upon making further queries, vide Office Order dated 21.5.2013, the applicant was informed that the Recruitment Process of Traffic Apprentice against the said Employment Notice is completed and a total of 130 candidates have been empanelled against such posts. Thereafter, the applicant, on 5.12.2013, made an application under prescribed format seeking for authenticated certified xerox copies of his Answer Sheet and 'Key to Answer'. In response he was informed that there was no provision to provide the certified xerox copies of the Answer Sheet and Answer Key. He was also informed that the same cannot be supplied as the old records are not preserved for such a long period.

That, although he had preferred an appeal to the appellate authority on 20.1.2014 against the said communication of the respondents, no response was received from the appellate authority in this regard.

Hence, having no other alternative, the applicant has filed the instant application.

4. The respondents, on the other hand, argued that the application was not maintainable on the following grounds:-

- (i) That, the applicant has not impleaded the Union of India as respondent No. 1, as such the application stands as void and incorrect.
- (ii) That, the application is badly barred by limitation as per Section 21 of the Administrative Tribunals Act, 1985 as it has been moved after six years.
- (iii) As the applicant has been unsuccessful in the qualifying examination no cause of action arises in this matter as far as the applicant is concerned.

5. After having heard the arguments and having perused the

documents, it is seen that despite the fact that cause of action has arisen in 2007, the application has been filed on 24.4.2014; no application for condonation of delay has been submitted while filing the same.

6. We have heard the Ld. Counsel for the applicant and have perused the documents on record. Section 21 of the Administrative Tribunal Act, 1985 provides for limitation of filing an O.A. 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 sub-section (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.

XXXXXX

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.”

7. Hence, we do not think that this is a fit case for condonation of delay and restoration of application after a gap of six years which could not be explained suitably by the applicant and consider this O.A. as hopelessly barred by limitation by Section 21 of the Administrative Tribunal Act, 1985.

8. In this context, we refer to a judgment delivered by the Hon’ble Supreme Court in the matter of **Chennai Metropolitan Water Supply & Sewerage Board and ors. V. T.T. Murali Babu**, reported in AIR 2014 SC 1141 in which the Hon’ble Apex Court have heavily come down on the Courts/Tribunals for entertaining matters without considering the statutory provision of filing application belatedly. The relevant portion of the observations of the Hon’ble Apex Court as contained in paragraph 16 is



quoted hereinbelow:-

“ Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principles that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects activity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely “procastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay also brings in hazard and causes injury to the lis. In the case at hand, though there has been four years delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility and remained unauthorizedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which is acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with ‘Kumbhakarna’ or for that matter ‘Rip Van Winkle’. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.”

Further, in the matter of ***Lanka Venkateswarlu v. State of AP (2011) 4***

**SCC 363**, the Hon’ble Apex Court has held as under:-

“26. Having recorded the aforesaid conclusions, the High Court proceeded to condone the delay. In our opinion, such a course was not open to the High Court, given the pathetic explanation offered by the respondents in the application seeking condonation of delay.”

9. In our considered view, no explanation having been offered on the long delay in filing of the application, the same does not merit consideration. The maxim of “vigilantibus, non dormientibus, jura sub-veniant” (law assists those who are vigilant and not those sleeping over their rights) is applicable in this case.”

10. Accordingly, we dismiss the O.A. on merit. There will not no order on costs.

(Nandita Chatterjee)  
Administrative Member

(Manjula Das)  
Judicial Member

SP

