

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00625/2016

(with MA No.200/00722/2016)

Jabalpur, this Tuesday, the 09th day of April, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Ashu Sethi, S/o Late Shri Ashok Kumar Sethi, aged about 30 years, R/o C/o Smt. Poonam Sahani, H. No.578, Behind Gorakhpur, Gurudawara, Jabalpur, District Jabalpur (MP) 482001.

-Applicant

(By Advocate – Shri Tarun Sengar)

V e r s u s

1. Union of India, West Central Railway, Indra Market, Jabalpur through its General Manager 482001.
2. The Divisional Railway Manager (Kramik), West Central Railway, Jabalpur Division, Jabalpur (MP) 482001.
3. The Divisional Assistant Engineer, West Central Railway, Jabalpur, District Jabalpur (MP) 482001

- Respondents

(By Advocate – Smt. Anjana Shrivastava, proxy counsel of Shri A.S. Raizada)

ORDER (REASONED)

By Navin Tandon, AM.

The applicant, son of the deceased employee, has filed this Original Application seeking quashment of order of removal of his father from service dated 26.07.2003.

2. He has also filed MA No.200/00722/2016 for condonation of delay in filing this Original Application.
3. Heard the matter on application for condonation of delay.
4. Learned counsel for the applicant submitted that mother of the applicant died on 01.08.2004 and his father was also suffering from mental imbalance. Thereafter, the deceased also passed away on 10.12.2006. Due to sudden demise of his parents, it took long time for the applicant to overcome the shock and gather himself.
- 4.1 Subsequently, it came to the knowledge of the applicant that his father was removed from service on 26.07.2003. Therefore, he preferred an appeal on 21.08.2015 (Annexure A-1), which has not been decided yet.
5. The respondents have filed their reply to the application for condonation of delay. It has been submitted that the order of removal from service dated 26.07.2003, was communicated to the deceased and received by him on 30.07.2003 (Annexure R-1). However, during his lifetime, he had never questioned the same. Therefore, there is delay of 13 years in filing the Original Application.
6. We have perused the application for condonation of delay.

7. Section 21 of the Administrative Tribunals Act, 1985 (in short ‘Act’) deals with limitation for filing O.A. before this Tribunal, which reads 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.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(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 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.

8. From the perusal of the aforesaid section, it is clear that under the Act, the limitation has been prescribed for filing O.A. before this Tribunal within one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has further been stated in the Act that if the application is not filed within time as stipulated in Section 21 of the A.T. Act, then the applicant has to move a Misc. Application for Condonation of delay by explaining each day in not filing the Original Application within the limitation.

9. In the instant case, the father of the applicant was removed from service on 26.07.2003. He was communicated with the order of removal on 30.07.2003. However, he had never exhausted any departmental remedy against the same during his lifetime till he died on 10.12.2006.

10. The applicant has filed this Original Application on 14.06.2016, i.e. after a delay of almost 13 years from the date of death of his father, seeking direction to the respondents to decide his appeal dated 21.08.2015 (Annexure A-1), which also has been filed after a lapse of more than 12 years. There is no such explanation in the application for condonation of delay regarding each delay in not filing the Original Application within the stipulated time, as prescribed under the Act. Therefore, we do not find any reason for condoning the delay in filing the O.A.

11. Accordingly, MA for condonation of delay is rejected. Consequently, the O.A is dismissed as barred by limitation. No costs.

(Ramesh Singh Thakur)
Judicial Member

am/-

(Navin Tandon)
Administrative Member