

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No.290/00345/2016
With Misc. Application No.290/00200/2016

Reserved on : 11.03.2019
Pronounced on : 28.03.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)
HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Taru Ram s/o Shri Narsa Ram, by caste Meghwal, aged about 44 years, resident of Ramsar, Bikaner.

...Applicant

(By Advocate: Shri Kan Singh Oad)

Versus

1. The Union of India through the Secretary, Ministry of Communication (Department of Posts), Sanchar Bhawan, New Delhi.
2. Superintendent of Post Offices, Bikaner Division.

...Respondents

(By Advocate: Shri K.S.Yadav)

ORDER

Per Mrs. Hina P.Shah, M(J)

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant prays for the following reliefs:-

- (A) By an appropriate order or direction, the impugned order dated 31.7.2006 (Annexure-A/1), Memorandum with statement of charges and allegations dated 25.1.2006

(Annexure-A/3) and Enquiry Report dated 8.6.2006 (Annexure-A/4) may kindly be quashed and set aside and respondents may kindly be directed to reinstate the applicant by revoking the orders or removal from service as aforesaid and further be directed to provide all the arrears of service benefits alongwith simple interest @ 9% per annum with all consequential benefits.

- (B) By an appropriate order or direction, the impugned penalty awarded to the applicant, by the respondents vide impugned order vide Annexure -A/1, may kindly be interfered and be declared unsustainable, on the ground of being too harsh and disproportionate to the gravity of misconduct and in alternate, lesser penalty if deemed fit, may kindly be imposed against the applicant, so as to reinstate him in service with all consequential service benefits.
- (C) Any other order or direction, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case, may kindly be passed in favour of the applicant.
- (D) Cost of the O.A. may kindly be awarded in favour of the applicant.

2. Brief facts of the case, as pointed out by the applicant, are that he was initially appointed as Extra Departmental Branch Post Master (EDBPM) at Head Post Office, Bikaner vide order dated 15.9.1997. While discharging his duties at GDSBPM, Ramsar, the respondents proposed to make enquiry under the provisions of Rule 10 of Gramin Dak Sevak (Conduct and Employment) Rules, 2001 and issued Memorandum dated 25.01.2006 along with statement of charges/allegations. Enquiry Officer was appointed and after completion of enquiry, the charges levelled against the applicant were found as proved. Thereafter the Disciplinary Authority vide order dated 31.7.2006 ordered to remove the applicant from service. Being aggrieved by the action of the respondents, the applicant has filed the present OA.

3. A Misc. Application No. 200/2016 has also been filed for condonation of delay stating that he was continuously in personal approach with the respondents and that he was not aware about the provisions of appeal. The respondents also did not bring into the knowledge of the applicant about the provisions of filing of appeal. Rather the respondents always gave assurances that the grievance of the applicant will be meted out. The applicant was also not aware about the provisions to file the Original Application within time as prescribed in Administrative Tribunals Act. Hence, he could not file the OA within time. This being just, reasonable and sufficient cause, the delay caused in filing the OA may be condoned in the interest of justice.

4. The respondents have filed reply dated 22.5.2017 to the Misc. Application for condonation of delay. The respondents have stated that the applicant has never represented orally or in writing. He has also not explained the delay of 10 years in filing the OA on day to day basis as required as per the law laid down by the Hon'ble Apex Court. The applicant was removed from his service vide order dated 31.7.2006, but the instant OA has been filed on 2.6.2016 i.e. after a delay of 10 years. Therefore, the OA suffers from vice of inordinate and unexplained delay and is

liable to be dismissed as per the provisions of Section 21 of the Administrative Tribunals Act, 1985. The respondents have relied upon **Bhoop Singh vs. Union of India (1992) 3 SCC 136** stating that the period of limitation for filing an application under Section 19 is to be counted from original date of cause of action and submission of representation does not extend the period of limitation. The respondents also relied upon the case of **C.Jacob vs. Director of Geology and Mining and Anr.** (2009) 10 SCC 115 and **Union of India vs. M.K.Sarkar**, 2009 AIR (SCW) 761. According to the respondents, in view of these judicial pronouncements, the OA is liable to be dismissed as barred by limitation as last communication was made to the applicant on 31.7.2006 removing him from service and thereafter no communication was made by the applicant. The respondents have further stated that ignorance of provisions of filing appeal before the appellate authority and filing the OA has no consequence as ignorance of law is no excuse.

5. We have heard Shri Kan Singh Oad, learned counsel for the applicant and Shri K.S.Yadav, counsel for the respondents and perused the material available on record.

6. The applicant contended that since he was not aware about the provisions of the Administrative Tribunals Act, therefore, he could not file the Original Application within time limit prescribed under the said Act. He was also unaware about the provisions of appeal and, therefore, he could not file the appeal. His further contention is that he may be given opportunity to file an appeal and that the respondents may be directed to decide the same within the prescribed time limit.

7. On the other hand, the contention of the respondents is that ignorance of law cannot be an excuse to file the OA belatedly. The order of removal from service was issued on 31.7.2006 and the applicant has approached this Tribunal only in 2016. The respondents further contend that since no sufficient ground explaining the delay has been mentioned for condonation of delay, therefore, the OA deserves to be dismissed as it is hopelessly time barred.

8. Considered the rival contentions of both the parties.

9. Admittedly, in the present case charge memo was given to the applicant on 25.1.2006. Enquiry Officer was appointed and the said Enquiry Officer submitted his report on 8.6.2006. Agreeing with the inquiry report, the Disciplinary Authority has passed order dated 31.7.2006

whereby the applicant had been removed from service. Being aggrieved by the action of the respondents removing his services, the applicant has filed the present OA only on 2.6.2016. In the Misc. Application for condonation of delay he has taken ground that he was unaware about the provisions of filing appeal and the Original Application and since, he was given assurances by the respondents for redressal of his grievance, therefore, the applicant has sufficient ground for condonation of delay. But, we are of the view that these cannot be said to be sufficient grounds in filing the Original Application belatedly. Also no cogent reasons have been given by the applicant for condoning the delay in approaching the Tribunal. Mere ignorance of provisions cannot be an excuse for approaching the Tribunal belatedly.

10. At this stage, it will be relevant to refer to some of the judgments of the Hon'ble Apex Court in this regard. A three Judges Bench of Hon'ble Apex Court in the case of **Bhoop singh vs. Union of India etc.** (1992) 3 SCC 136, ruled that:-

"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. Others

are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed. Accepting the petitioner's contention would upset the entire service jurisprudence”.

11. In the case of **State of Karnataka and Ors. vs. S.M.Kotrayya and Ors.**, (1996) 6 SCC 267, the Hon’ble Apex Court observed as under:-

“9. Thus considered, we hold that it is not necessary that the respondents should give an explanation for the delay which occasioned for the period mentioned in sub-sections (1) or (2) of Section 21, but they should give explanation for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be required to satisfy itself whether the explanation offered was proper explanation. In this case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required to them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore, the Tribunal is wholly unjustified in condoning the delay.”

12. In the case of **D.C.S Negi v. U.O.I**, SLP (Civil) No. 7956 of 2011 CC No. 3709/2011 decided on 11.3.2011, it has been held as under:

“A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is

shown for not doing so within the prescribed period and an order is passed under Section 21(3)".

13. In view of above observations, it is clear that the applicant has miserably failed to plead and prove the grounds, much less sufficient and cogent to condone the inordinate delay. Therefore, the Misc. Application for condonation of delay deserves to be dismissed, which is accordingly dismissed. Resultantly, the OA also stands dismissed. No order as to costs.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/