

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Misc. Application No. 290/00247/2017
(Original Application No.290/00342/2017)

Reserved on : 15.04.2019

Pronounced on : 24.04.2019

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

HON'BLE MS. ARCHANA NIGAM, MEMBER (A)

Babu Khan s/o Sagte Khan, by caste-Musalman, age-51, resident of Village & Post Ram Garh, District Jaisalmer (Rajasthan) terminated from the post of Driver.

...Applicant

(By Advocate: Shri P.D.Bohra)

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Commander, Head Quarter 45 Border Road Task Force, Ramgarh, District-Jaisalmer (Rajasthan).
3. Chief Engineer, General Reserve Engineer Force (GREF) pin 930095, C/o 56 APO, Ramgarh, District Jaisalmer (Rajasthan).

...Respondents

(By Advocate: Shri B.L.Tiwari)

ORDER

Per Mrs. Hina P.Shah

Heard on Misc. Application for condonation of delay.

2. The applicant by way of filing this Misc. Application for condonation of delay stated that he belongs to Maganiar society and is hand to mouth and had gone into depression. He is residing in remote area of District Jaisalmer and has no source of earning and he has worked as Labour. He has approached the Hon'ble High Court and Hon'ble High Court has given him liberty to avail appropriate remedy and has accordingly presented the OA before this Tribunal. He had no knowledge about the limitation. If the Tribunal allows the application, he will not be put to such hardship and prejudice. Therefore, the applicant stated that the delay in approaching Tribunal requires to be condoned in the interest of justice.

3. The respondents have filed reply to the Misc. Application raising objection of limitation. The respondents have stated that this application lacks merit as no reasonable explanation has been furnished for the delay. Though the Hon'ble Rajasthan High Court had granted liberty to the applicant but it was clearly mentioned in the order that the said application is to be adjudicated by this Tribunal as per provisions of Administrative Tribunals Act, 1985. Since under the Administrative Tribunals Act, the applicant has to raise his grievance within the period of

limitation, but he has failed to file the present OA within time. No cogent and strong reason has been given by the applicant for the delay to be condoned. Therefore, the respondents pray that the present MA as well as OA deserve to be dismissed on the ground of limitation itself.

4. We have heard Shri P.D.Bohra, counsel for the applicant and Shri B.L.Tiwari, counsel for respondents.

5. Admittedly, the applicant in the present OA has challenged the oral order of termination of May, 2014 by approaching the Tribunal on 12th September, 2017. Though liberty was granted by the Hon'ble High Court vide its order dated 11.5.2016 but the Hon'ble High Court clearly observed that the present OA is required to be adjudicated by this Tribunal as per provisions of the Administrative Tribunals Act, 1985. The provisions with regard to limitation u/s Section 21 of the Administrative Tribunals Act, 1985 provides 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."

In the Misc. Application for condonation of delay, the applicant has stated that he is hand to mouth and has gone into depression. He belongs to Mangniar Society and residing in remote area of District Jaisalmer and has no knowledge about limitation. The Hon'ble High Court has given him liberty to avail appropriate remedy and now his family members and society said him to look into the matter. Therefore, the delay in filing the present OA may be condoned.

6. After considering the matter on limitation, we are not so convinced about explanation of delay in filing the present OA. Time and again the Hon'ble Apex Court has held that delay itself is a ground to refuse relief to the applicant, irrespective of the merit of the case. 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”.

7. In view of above, the OA can only be dismissed on the ground of limitation without going into merit of the case since the delay is not sufficiently explained, but in the interest of justice, we are of the view that the delay should be condoned. Accordingly, we condone the delay and allow the Misc. Application for condonation of delay.

Let the OA be listed on 24.5.2019. The respondents are directed to file additional detailed reply specifically mentioning the number of days of working and status of the applicant in the respondent department alongwith relevant provisions/rules.

(ARCHANA NIGAM)
ADMV. MEMBER

(HINA P.SHAH)
JUDL. MEMBER

R/

