

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

MISC. APPLICATION NO. 291/128/2017

(ORIGINAL APPLICATION NO. 291/143/2017)

Order reserved on 27.08.2019

DATE OF ORDER: 30.09.2019

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

Mangal Son of Shri Rudra aged about 50 years, resident of House No. 83, Railway Colony, Railway Station Mangrol, Nimbaheda, Chittorgarh, Rajasthan.

....Applicant
Mr. Rajvir Sharma, counsel for applicant.

VERSUS

1. Union of India through its General Manager, West Central Railway, Jabalpur, M.P.
2. Divisional Railway Manager, West Central Railway, Kota, Rajasthan.
3. Sr. Divisional Engineer (N), Kota, West Central Railway, Kota.
4. Assistant Divisional Engineer (Central), West Central Railway, Kota Division, Kota.

....Respondents
Mr. P.K. Sharma, counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

The applicant, who had been working as Gangman with the respondents, was removed from service by respondent no. 4 vide order dated 09.03.2004 (Annexure A/2). Aggrieved by the said order, he preferred an appeal before respondent no. 3, which was dismissed vide order dated 24.04.2004 (Annexure A/1). Aggrieved by the said orders, the applicant has preferred

the present Original Application on 21.03.2017 under Section 19 of the Administrative Tribunals Act, 1985.

2. Alongwith the Original Application, the applicant has also filed a Misc. Application seeking condonation of delay in filing the Original Application. It has been averred in the said Misc. Application that the applicant was never informed about the order dated 24.04.2004 vide which his appeal was dismissed by respondent no. 3. It has further been pleaded that pursuant to an RTI application, the applicant was supplied a copy of the order on appeal by the respondents with their letter dated 26.09.2016. Pleading that the delay in filing the Original Application is bona-fide, the applicant has prayed for condonation of the same.

3. The respondents, while joining the defence, filed reply to said Misc. Application and by controverting the facts as stated by the applicant, it has been submitted that the order dated 24.04.2004 passed by the Appellate Authority was delivered and communicated to the applicant on 25.05.2004 by the respondents and the applicant himself received the same after putting his signatures on the receipt.

4. In order to ascertain the fact with regard to receipt of order passed by the Appellate Authority by the applicant, we summoned the original record and found that the order dated 24.04.2004 was received by the applicant himself on 25.05.2004 after putting his signatures on a receipt.

5. Since the applicant has failed to explain and justify the inordinate delay of about 13 years in filing the Original Application, therefore, we do not find any reason to allow the Misc. Application for condonation of delay. The applicant has not even come to this Tribunal with clean hands as he tried to mislead by making an assertion in his Misc. Application that the order dated 24.04.2004 was never communicated to him by the respondents. Whereas, the record revealed that the order dated 24.04.2004 was received by the applicant himself after putting his signatures on a receipt. In the facts and circumstances of the case, we are of the view that the Misc. Application for condonation of delay is not bona fide and the same deserves to be dismissed.

6. Finding no merit, the Misc. Application, seeking condonation of delay in filing the Original Application, is hereby dismissed. Consequently, the Original Application is also dismissed being barred by limitation. However, there shall be no order as to costs.

**(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER**

**(SURESH KUMAR MONGA)
JUDICIAL MEMBER**

Kumawat