

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH, KOLKATA**



O.A. 350/932/ 2014  
M.A. No. 166/2015

Heard on : 08.08.2019

Order dated: 20.08.2019

**Coram : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

Asit Baran Pramanik,  
Son of late Jiban Krishna Pramanik,  
Aged about 62 years,  
Working as GDSBPM,  
residing at Vill.+P.O. Bahria,  
Dist. Howrah, Pin 711316,  
West Bengal.

..... Applicant.

Versus

1. The Union of India,  
Service through the General Manager,  
Kolkata – 1.
2. The Post Master general,  
South Bengal Region,  
Kolkata – 700 012.
3. Senior Superintendent of Post Office,  
Midnapur Division,  
Paschim Midnapur,  
Dist- Paschim Midnapur – 721301.

..... Respondents.

For the applicant : Mr. A.Chakraborty, Counsel

For the respondents : Ms. M.Bhattacharya, Counsel

**ORDER**

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

The applicant has come up in this O.A. challenging the disciplinary proceedings initiated against him by the Respondent authorities, and, in particular, the order of the Appellate Authority dated 19.10.2012. The applicant also prays for a direction to the Respondents to refund the amount of Rs.

*Asit*

5,65,515/-, which the applicant has reportedly deposited with the Respondent authorities prior to the initiation of the disciplinary proceedings.

2. An M.A. bearing No. 166/2015, arising out of O.A.No. 932/2014, has been filed praying for condonation of delay in filing O.A.

3. Heard both Ld. Counsel; examined pleadings and documents on record.

4. The applicant states that although he has challenged the orders of the Appellate Authority dated 19.10.2012, the O.A. was filed on 11.07.2014, and that, there was a delay of 210 days in filing the O.A. By way of explanation, the applicant cryptically states that he was suffering from various ailments during delay period and furnishes a certificate from a private medical practitioner to this effect. The certificate discloses that the applicant was being treated during the period 01.09.2013 to 01.07.2014 on grounds of Gastro Esophageal Reflux Disease and Irritable Bowel Syndrome. No explanations, however, have been advanced for the applicant's inaction during the period 20.10.2012 to 31.08.2013.

5. Respondents have objected to the said prayer of condonation of delay by their written statement dated 21.12.2015. The primary contentions of the Respondents are as follows:

(a) That, the applicant had clearly admitted that he had misappropriated public money from several SB/RD account of Bahira Branch Post Office, Uluberia Sub Division, where he was posted as Gramin Dak Sevak Branch Postmaster.

(b) That, the applicant, thereafter, voluntarily deposited the defrauded amount of Rs. 5,67,515/- to the Government account



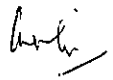
as unclassified receipt and not in response to any written or oral directions of the Respondent authorities.

(c) That, the applicant was charge sheeted for misappropriation of public money vide memorandum of charges dated 24.04.2007, and, that, a departmental inquiry was conducted and all the allegations leveled against the applicant were established during inquiry. Respondent No.3, thereafter, issued an order of punishment by removing the applicant from service with a rider that such removal would not be disqualification for future employment.

(d) Applicant, thereafter, preferred an appeal dated 22.03.2012, which was, ultimately, disposed of by the Appellate Authority vide order dated 10.10.2012 rejecting his appeal and upholding the punishment imposed by the Disciplinary Authority.

(e) That, the applicant has not been able to advance any satisfactory grounds on the delay in filing the O.A. and has hardly advanced any cogent reasons towards the same, and, hence, the Respondents would argue that this being barred by limitation under Section 21(1) of the Administrative Tribunal Act, 1985, the O.A. is liable to be rejected limine.

6. We have examined the rival contentions of both sides, and, we do not find that the applicant was able to advance any cogent and robust reasons to explain his delay in violation of Section 21(1) of the Administrative Tribunal Act, 1985. The period immediately following the orders of the Appellate authority, namely, from October, 2012 to August, 2013 remain unexplained. Further, the illness



referred to in the certificate of the medical practitioner for the period September, 2013 to July, 2014 is not a life-threatening disease requiring hospitalization, and, accordingly, we reject the applicant's explanations as a cogent reason for explaining delay.

7. 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.

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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."

8. As we do not think that this is a fit case for condonation of delay which could be explained suitably by the applicant, we consider this O.A. hopelessly barred by limitation by Section 21 of the Administrative Tribunal Act, 1985.

9. 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**

*hph*

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 herein below:-

*"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:-

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"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."

Further, in *D.C.S. Negi v. Union of India and others*, (2019) 1 Supreme Court Cases (L&S) 321, the court held as follows:-

"..... We consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under Section 19 of the Act in complete disregard to the mandate of Section 21, 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 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."

13. 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).

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14. In the present case, the Tribunal entertained and decided the application *without even adverting to the issue of limitation*. The learned counsel for the petitioner tried to explain this omission by pointing out that in the reply filed on behalf of the respondents, no such objection was raised but we have not felt impressed. In our view, the Tribunal cannot abdicate its duty to act in accordance with the statute under which it is established and the fact that an objection of limitation is not raised by the respondents / non-applicant is not at all relevant."

10. In our considered view, no satisfactory and cogent explanation having been offered on the 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.

Accordingly, M.A. 166/2015 is rejected and, consequently, O.A. is dismissed on the ground of delay. There will be no orders as to costs.

(Dr. Nandita Chatterjee)  
Member (A)

(Bidisha Banerjee)  
Member (J)

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