
(2019) 08 CAT CK 0009

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 2447 Of 2019, Original Application No. 3190 Of 2014

Nadeem

APPELLANT

Vs

Indira Gandhi National Open University, (IGNOU) And Ors

RESPONDENT

Date of Decision : 05-08-2019

Acts Referred:

Administrative Tribunals Act, 1985 — Section 22(3)(f)

Citation : (2019) 08 CAT CK 0009

Hon'ble Judges : Nita Chowdhury, Member (A), S.N. Terdal, J

Bench : Division Bench

Advocate : G.D. Mishra, Deephikha Rai

Final Decision : Dismissed

Judgement

Nita Chowdhury, Member (A)

1. This MA has been filed by the review applicant seeking condonation of delay in filing the Review Application, vide which the review applicant is seeking to review the Order passed on 31.8.2018 in OA 3190/2014 and sought condonation of delay of 9 months and 21 days in filing the Review Application. The instant MA as well as RA was filed on 23.7.2009.

2. As per the provisions of Section 22(3)(f) of the Administrative Tribunals Act, 1985, the review application has to be filed within 30 days from the date of receipt of a copy of the Order sought to be reviewed. The review applicant has pleaded in the instant MA that he came to know about the passing of the (NCTE) National Council for Teaching Education (Amendment) Act, 2009 immediately after dismissal of his OA 3190/2014, vide which according the review applicant the Diploma in Primary Education (DPE) course which the applicant successfully granted recognition by the said Act retrospectively, i.e., w.e.f. 17.8.1995 and immediately, the applicant move his several representations to the respondent to consider his candidature for the post in question in accordance with NCTE

(Amendment) Act, 2019. However, till date he has not received any communication from the respondents to his representations, he has left with no option but to approach this Tribunal. As such the delay is neither intentional nor deliberate on the part of the review applicant but has been caused due to aforesaid reasons and, therefore, the same may kindly be condoned in the interest of justice.

3. However, we found that the Order under Review was of 31. 8.2018 and the Review Application along with this MA has been filed on 23.7.2019 and as such there is certainly a delay of more than 10 months 22 days in filing the Review Application as the applicant has not stated in this MA when he has received a certified copy of the Order under Review.

The Hon'ble Supreme Court in the case of D.C.S. Negi vs. Union of India and others, in SLP (C) No.7956/2011 decided on 07.03.2011, has categorically held that the Administrative Tribunal is duty bound to first consider whether the application is within limitation, and further that the application can be admitted only if it is found to be within limitation or for any justified reason for extending the period of limitation. However, the explanations given in the MA for condonation of delay, as noted above, are not found to be satisfactory to enable this Tribunal to condone the same, as the applicant himself stated that he came to know about the said Amendment, which was issued vide Gazette Notification dated 11.1.2019, in the month of January 2019 itself and the OA was heard and disposed of vide Order dated 31.8.2018, i.e., much before the amendment of the said Act. It is to be noted that the applicant got the copy of the said Amended Act vide letter dated 29.1.2019 and the instant OA was filed on 23.7.2019. However, to substantiate his claim, applicant pleaded that he made repeated representations and when no heed is paid by the respondents, he has filed this RA. As such this Court is of the considered view that the applicant had not taken appropriate steps in time to move the Review Application within the permissible time period.

4. In the result, and for the foregoing reasons, this Tribunal does not find any sufficient reasons to condone the delay in filing the present Review Application and accordingly, the present MA is dismissed in circulation.