
(2012) 08 RAJ CK 0049
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7939 of 2012

N.K. Janjani

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2013) LabIC 349 : (2013) 3 RLW 2758

Hon'ble Judges : Narendra Kumar Jain, J;Bela M. Trivedi, J

Bench : Division Bench

Advocate : Jitendra Mitruka, for the Appellant;

Final Decision : Dismissed

Judgement

Narendra Kumar Jain-I, J.—Heard learned counsel for the petitioner. The challenge in this Writ Petition is the order dated 28.3.2012 passed by the Central Administrative Tribunal, Jaipur Bench, Jaipur whereby the Original Application No. 497 of 2009 filed by the petitioner has been dismissed on the ground of limitation.

2. From the impugned order and other documents available on record, it appears that the petitioner initially filed Original Application No. 138 of 2005 before the Central Administrative Tribunal challenging the order dated 27.3.2003 whereby the respondents were promoted with effect from 6.12.2000. In the said OA, the counsel for the applicant sought permission to withdraw me Original Application. Learned Tribunal vide its order dated 7.9.2009 disposed of the Original Application No. 138 of 2005 with liberty to applicant to file substantive Original Application.

2A. Thereafter, the petitioner filed present Original Application No. 497 of 2009 which has been dismissed by Tribunal vide impugned order dated 28.3.2012 on the ground of limitation. Therefore, petitioner has preferred this writ petition.

3. Learned counsel for the petitioner submitted that since a liberty was granted

to the petitioner while disposing off the Original Application No. 138 of 2005 vide order dated 7-9-2009, therefore, the Original Application No. 497 of 2009 should have been treated as in time and it should not have been dismissed on the ground of limitation. He has submitted that there was no need of any application u/s 5 of Limitation Act, for condonation of delay in filing the Original Application No. 497 of 2009 as liberty was granted for filing fresh original application vide order dated 7-9-2009.

3A. We have considered the submission of learned counsel for the petitioner and examined the impugned order passed by the Tribunal. Counsel for the petitioner does not dispute that Original Application No. 138 of 2005 was filed against the order dated 27-3-2003 and the same was disposed of with liberty vide order dated 7.9.2009. Original Application No. 497 of 2009 was also filed against the impugned order dated 27.3.2003. Apparently, it is clear that the Original Application No. 497 of 2009 was filed after a delay of about 6 years. The filing of Original Application No. 138/2005 and withdrawal thereof could have been pleaded as sufficient cause for condonation of delay but granting liberty to file fresh original application does not give any right to applicant for not filing an application u/s 5 of Limitation Act, along with fresh Original Application. Admittedly, the Original Application No. 497 of 2009 was filed in the year 2009 challenging the order of the year 2003, without any application u/s 5 of Limitation Act. Learned Tribunal has dismissed the original application on the ground of limitation. In our view, the learned tribunal was absolutely right in rejecting the Original Application on the ground of limitation, we find no force in the submission of learned counsel for the petitioner. In view of the above, we find no merit in this petition and the same is accordingly dismissed in limine.