

(2019) 09 CAT CK 0058

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 1636 Of 2019

Pankaj Kumar

APPELLANT

Vs

National Institute Of Electronics & Information Technology

RESPONDENT

Date of Decision : 17-09-2019

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21(1)(b)

Citation : (2019) 09 CAT CK 0058

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Sunil Kumar, Duli Chand

Final Decision : Allowed

Judgement

1. Heard Shri Sunil Kumar, learned counsel for the applicant and Shri Duli Chand, learned counsel for the respondent on the Application for Condonation of Delay.

2. The OA has been filed by the applicant for seeking the following reliefs:-

"(a) quash the order dated 18/5/2015 (Annexure A.1);

(b) Direct the respondent to dispose of the representations dated 20/03/2018 to 10.12.2018 filed by the applicant and grant him three increments as the incentives for acquiring higher qualification w.e.f. 23.04.2009;

(c) to direct respondent to give the applicant interest on increment amount w.e.f. 23.04.2009 as per EPF Rates.

(d) to direct respondent to have action against person responsible for delay and arbitrary decisions.

(d) to direct respondent to bear all the expenditure of legal proceedings done by the applicant."

3. Counsel for the applicant submitted that he came to know about the impugned order dated 18.5.2015 only when he filed RTI for receiving his personal file,

service book and ACRs/APARs on 7.11.2017. Thereafter on 20.03.2018, the applicant filed his first representation before the respondent and the same was pending till the filing of the OA and as per Section 21(1)(b) of the Administrative Tribunals Act, 1985, the limitation period for filing the OA would expire on 20.9.2019 and the instant OA was filed by him on 1.5.2019. Counsel further submitted that as an abundant caution, he has filed this MA so that the claim of the applicant may not be rejected on technical ground of limitation.

4. Counsel for the respondent by referring to the counter affidavit submitted that no such order dated 18th May 2015 was ever issued. Counsel further submitted that the applicant has annexed the copies of the noting of the respondent's office.

5. We went very carefully through the Annexure A.1 of the OA and found that at page 28 of the paperbook, certain decision was taken qua the grievance of the applicant and the said decision was approved by the Director of respondent's organization and thereafter DD (Admn) wrote in the said note that OM issued and put his signature on 23.7.2015 but the fact is evidently proved that no such OM qua the approval of the Director mentioned in the said noting was ever issued by the respondent's organization on or after 18.5.2015, which fact is fortified with the averment of the respondent's counter affidavit at page 191 of the paperbook that "No order was ever issued on 18th May 2015. The entry of the DD(Admn.) on the same very noting (at page 28 of the paperbook) is clearly contradictory to the averments of the respondent in the counter affidavit at page 191.

6. After hearing both the parties, this Court is of the considered view that the aforementioned explanations, as given by the applicant and also the factual position of this case, are sufficient to condone the delay in filing the Original Application, as the expression 'sufficient cause' should be considered with pragmatism rather than be seen technically as detection of sufficient cause for explaining every day's delay. On examination of the entire facts, this Tribunal is of the considered view that in the facts and circumstances of the present case, the delay caused in filing the accompanying Original Application deserves to be condoned. According, the present MA 1636/2019 is allowed.

Original Application Registry is directed to allocate number to the Original Application and thereafter list it before the appropriate Bench for hearing on 09.10.2019.