

(2019) 01 CAT CK 0010

In the Central Administrative Tribunal

Case No : Civil Misc. Delay Condonation Application No. 330, 00675 Of 2016,
Original Application No.330, 00027 Of 2016

Rajesh Kumar Nigam

APPELLANT

Vs

Union of India And Ors

RESPONDENT

Date of Decision : 04-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0010

Hon'ble Judges : Bharat Bhushan, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Arun Kumar Gupta, Amrendra Kumar Srivastava

Final Decision : Dismissed

Judgement

Bharat Bhushan, J

1. Applicant, Rajesh Kumar Nigam has filed this Original Application after 15 years of impugned order dated 5.2.2001, whereby the review application against the removal was dismissed by the competent authority.

2. The applicant was working as Helper Khalasi under Senior Divisional Signal and Telecom Engineer, North Central Railway, Allahabad Division.

3. It appears that applicant has challenged the punishment order dated 26.4.2000 passed by the Disciplinary Authority whereby he was removed from service. He preferred an appeal which was dismissed on

4. 8.2000. Review Application, moved by the applicant was also dismissed vide order dated 5.2.2001.

4. Now, after 15 years, the applicant has moved this Original Application (O.A.). A Misc. Application No. 330/00675/2016 for condonation of delay has also been moved by the applicant.

5. Heard Sri Amrendra Kumar Srivastava, counsel for applicant and Sri Arun

Kumar Gupta, counsel for respondents.

6. Learned counsel for applicant has submitted that he could not file present O.A. within time on account of sickness and related family problems. Applicant claims that he was mentally disturbed because of his poverty. He claims that his wife has also left him.

7. Learned counsel for applicant has also drawn the attention of this Tribunal towards the order dated 16. 9.2014 whereby he was authorized to file appeal within 30 days.

8. Learned counsel for respondents has disputed the claims of applicant and submitted that order dated 16. 9.2014 is merely an information under Right to Information Act, 2005 (RTI) and that letter available on record as Annexure A-6 to the O.A. merely informs the applicant that if he was not satisfied with the information given under RTI, then he could appeal before first appellate authority within 30 days and it has nothing to do with the departmental appeal. We are inclined to agree with the arguments of learned counsel for respondents for simple reason that the departmental appeal has already been dismissed by the competent authority on 4.8.2000. Thereafter, review was also dismissed on 5.2.2001. Both these orders are available on record as Annexure CR-8 and Annexure CR-10.

9. We are convinced that letter dated 16.9.2014 signed by P.I.O. under RTI does not extend the period of limitation as far as departmental proceedings are concerned.

10. The Hon'ble Apex Court in the case of Bhop Singh Vs. Union of India and others reported in (1992) 3 SCC 136, has been pleased to observe as under:-

"Inordinate and unexplained delay or latches is by itself a ground to refuse relief to the petitioner irrespective of the merit of his claim."

11. The Hon'ble Apex Court in the case of Union of India Vs. Harnam Singh reported in AIR (1993) SCC page 1367, has been pleased to observe that "The law of limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire."

12. The Hon'ble Apex Court in the case of S.S. Rathore Vs. State of M.P. reported in 1989 4 SCC 582, has been pleased to observe that "repeated representation/ reminders does not give rise to limitation."

13. In another case of Karnataka Power Corporation Limited through Its CMD Vs. K. Thangappan and others reported in (2006) 4 SCC 322, it is once again observed by the Hon'ble Apex Court that "Mere making representation cannot justify the delay."

14. There is an inordinate delay on the part of applicant and such delay has not been satisfactory explained. Mere belated statement that he could not do so on

account of personal inconveniences would not suffice. The present O.A. has been filed after a delay of 15 years. We do not think that it would be appropriate to entertain this O.A. with such a long delay.

15. For the foregoing discussions as well as observations made by the Hon'ble Apex Court, the delay condonation application No. 330/00675/2016 is rejected. Accordingly, the O.A. is also dismissed. No order as to costs.