

(2012) 05 DEL CK 0370
In the Delhi High Court
Case No : Writ Petition (C) 3105 of 2012

Saroj Bala

APPELLANT

Vs

Delhi Development Authority and Another

RESPONDENT

Date of Decision : 23-05-2012

Acts Referred:

Administrative Tribunals Act, 1985 — Section 20(2)(b), 21(1)(b)

Citation : (2012) 05 DEL CK 0370

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Sriparna Chatterjee with Mr Soumitra Chatterjee, for the Appellant;
Arun Birbal, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.

CM 6687/2012

The delay in re-filing is condoned.

This application stands disposed of.

WP(C) 3105/2012

1. This writ petition is directed against the orders dated 06.09.2011 and 22.11.2011 in OA 2081/2010 and RA 390/2011, respectively, passed by the Central Administrative Tribunal, Principal Bench, New Delhi. The petitioner's said Original Application and review application have been dismissed primarily on the ground of limitation. The petitioner was working as W/C (Work Charge) Mate with the DDA. She remained continuously absent for the period 01.12.1987 to 20.06.1998. However, she was permitted to join on 20.06.1998. Immediately thereafter disciplinary proceedings were started which culminated in the disciplinary authority's order dated 10.10.2001 whereby he directed that the entire period of absence be treated as "extra ordinary leave with break in service

for all purposes". The matter rested there for some time. The petitioner did not prefer any appeal against the said order dated 10.10.2001. The first representation made by the petitioner against the said order was on 08.04.2002. Thereafter, the petitioner made several other representations. The last of which was rejected by an order dated 04.01.2010. Taking advantage of the rejection dated 04.01.2010, the petitioner filed the said Original Application No. 2081/2010, impugning the rejection order of 04.01.2010.

2. At this juncture, it would be relevant to notice the contents of the said order dated 04.01.2010. The relevant portion of the same reads as under:?

Sub: Regarding Condoning Service break.

With reference to your request dated 22.12.2009 regarding condoning service break. In this context, it is inform you that the case was sent to the Director (W/C) Estt of consideration & further orders. The same has been received back with the remarks that the Competent Authority i.e..E./CC-17 has already taken a decision on 12.11.2009 in the file that the "period of absence cannot be regularized at this stage after a lapse of Eleven years.

(K.K. LALA) EXECUTIVE ENGINEER

W.D. No. - 13: D.D.A.

It is apparent from the said order dated 04.01.2010 also that the respondent stated that the period of absence cannot be regularized after a lapse of 11 years.

3. The learned counsel for the petitioner states that the Tribunal ought to have considered the Original Application on merits and should not have rejected the same on the bar of limitation. She submitted that the Original Application was in time insofar as the rejection order dated 04.01.2010 was concerned. But, we find that the rejection order itself was on the basis of a long period of time having elapsed between the date on which the cause of action arose and when the representation was made. The Tribunal has rightly rejected the petitioner's Original Application as also the review application on the ground of limitation by considering the fact that the actual cause of action insofar as the regularization of the period of absence is concerned, arose on the passing of the order dated 10.10.2001 by the disciplinary authority. Unless and until that order was challenged, any number of representations would make no difference. That order ought to have been challenged either in appeal before the appellate authority or by way of a representation within a reasonable period of time. The petitioner did not file any appeal but made a representation on 08.04.2002. In terms of Section 20(2)(b) of the Administrative Tribunals Act, 1985, where no final order has been made by the Government or other authority or officer or other person competent to pass an order with regard to an appeal preferred or representation made by a person, then such a person shall be deemed to have availed of all the remedies available to him upon the period of six months, from the date on which the representation was made, having expired. And, in terms of Section 21(1)(b)

of the said Act, such a person would have one year from the end of the said period of six months to file an Original Application before the Central Administrative Tribunal. In this case, the representation was moved by the petitioner on 08.04.2002 and the period of six months plus the further period of one year expired on 08.10.2003. The Original Application was filed only in 2010 after a period of about seven years. Clearly, the Tribunal was right in rejecting the Original Application filed by the petitioner on the ground of limitation. Since the petitioner had not filed any application for condonation of delay, the Tribunal could not even examine that aspect of the matter. As regards the series of representations that were made by the petitioner after the first representation of 08.04.2002, it is clear that repeated representations would not extend the period of limitation. As such, we find no fault in the orders passed by the Tribunal. The writ petition is dismissed. There shall be no order as to costs.