
(2023) 02 CAT CK 0007

In the Central Administrative Tribunal

Case No : Miscellaneous Delay Condonation Application No. 330, 01863 Of 2021,
Miscellaneous Recall Application No. 330, 01864 Of 2021 In Original
Application No. 806 Of 1993

Sayed Sajid Ali

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 02-02-2023

Acts Referred:

Central Administrative Tribunals Act, 1985 — Section 21, 21(3)

Citation : (2023) 02 CAT CK 0007

Hon'ble Judges : Om Prakash VII, Member (J); Dr. Sanjiv Kumar, Member (A)

Bench : Division Bench

Advocate : U.P Srivastava, M.K. Sharma

Final Decision : Dismissed

Judgement

Om Prakash VII, Member (J)

1. We have heard Shri U.P Srivastava, learned counsel for the applicant and Shri M.K. Sharma, learned counsel for the respondents.

2. Learned counsel for the applicants has filed Misc. restoration application no. 330/1864/2021 for recalling the order dated 23.9.1999 by which the O.A. was dismissed in default for non-prosecution. He has also filed Misc. Delay Condonation Application No. 330/1863/2021 for condoning the delay in filing the restoration application.

3. The restoration application has been preferred with a delay of around 22 years as is apparent from the fact that the O.A. was dismissed in default on 23.9.1999 and the restoration application has been filed on 06.09.2021.

4. In the Delay Condonation Application, the counsel for the applicant has taken the ground that due to Covid 19 pandemic and lock-down taken place in all over country, he could not contact his counsel and after normal mood of functioning of

the court, he tried to contact the counsel. When he contacted his counsel, he is aware that his case was dismissed in default on 23.09.1999.

5. Learned counsel for the applicant submitted that the delay in filing the restoration application was not deliberate but due to unavoidable circumstances which were beyond the control of the applicant, therefore, in the interest of justice the delay may be condoned in filing the restoration application and the O.A. be restored to its original number.

6. In rebuttal, learned counsel for the respondents submits that the law is settled that the delay in filing an application for restoration of the O.A. can be condoned provided applicant shows 'sufficient cause' for the delay. He further submitted that on 23.9.1999, the case was called out, none was present on behalf of applicant and learned counsel for the respondents was present. The case was dismissed in default and for non-prosecution. The present Recall/Restoration application has been filed on 6.9.2021 without explaining the delay day-to-day. In the Delay Condonation Application, the applicant has failed to explain the cogent reason and it is well established law that no application can be entertained by the Tribunal beyond the period of limitation.

7. We have considered the arguments of learned Counsel for the parties and gone through the material on record. The undisputed facts are that O.A. No. 806/1993 was dismissed in default vide order dated 23.9.1999 and application for its restoration was filed on 6.9.2021. There is limitation of 30 days for approaching the Tribunal from the date of cause of action accrued as prescribed under Section 21 of Central Administrative Tribunals Act, 1985. The applicant is approaching this Tribunal after a lapse of more than 22 years for seeking condonation of delay in filing the restoration application.

8. It is apparent that the applicant has displayed total negligence either deliberate or unintentionally in ascertaining their rights in the matter and, hence contributed in defeating the same. The inordinate delay in approaching this Tribunal for redressal of their grievances has been left unexplained. It is expected that the aggrieved parties would pursue their rights and remedies and claim their enforcement before the appropriate forum well in time and not sleep over it. Any delay particularly of an extended period, in effect negates the right of the concerned person and it may not be unreasonable to presume that in such cases he has abandoned his claim. Delay itself deprives a person of his remedy available in law. A person, who loses his remedy by lapse of time loses his right as well. On this issue, our view finds support from a judgment of Honble Supreme Court in the case of Capt. Harish Uppal v. Union of India & Ors. (JT 1994(3) S.C. 126). In this case the Honble Supreme Court has clearly held that if the parties "..... choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere.....". Therefore, in view of this position and the provision of Section 21(3) of CAT Act, we are of the considered view that the restoration application suffers from the infirmity of delay and laches and, therefore, deserves to be dismissed on the

ground of being highly time barred.

9. Thus in view of above, we are of opinion that the restoration application is highly time barred and the application for condonation of delay is liable to be dismissed on the ground of delay and laches.

10. Accordingly, the application for condonation of delay as well as application for recalling the OA are dismissed. No costs.