

(2013) 04 DEL CK 0199
In the Delhi High Court
Case No : Writ Petition (C) 2493 of 2013

Sh. Vinod Babu

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-04-2013

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2013) 04 DEL CK 0199

Hon'ble Judges : V. Kameswar Rao, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Meenu Mainee, for the Appellant; R.V. Sinha and Mr. R.N. Singh, for the Respondent

Final Decision : Disposed Off

Judgement

Pradeep Nandrajog, J.

CM No. 4709/2013

Allowed.

W.P. (C) No. 2493/2013

1. Learned counsel as above appears for the respondents on advance copy being served. Arguments have been heard.

2. Vide order dated June 05, 2008 penalty of removal from service was inflicted upon the petitioner. Appeal filed was disposed of vide order dated October 20, 2008 giving partial relief. Upholding penalty of removal from service it was directed that the petitioner would be entitled to full compensation allowance. Further statutory remedy of revision availed by the petitioner resulted in substantial relief ensuing to the petitioner when vide order dated March 03, 2009, the Revisional Authority reduces punishment to reduction in lower time scale of pay permanently with loss of seniority.

3. No further statutory remedy was available to the petitioner.
4. If the petitioner had a grievance he could have approached the Central Administrative Tribunal. As per Section 21 of the Administrative Tribunals Act, 1985 period of limitation being one year, the Original Application could have been filed on or before March 03, 2010.
5. Unfortunately for the petitioner he thought that he had a remedy of a Mercy Petition to the General Manager of the Division concerned, resulting in his, acting on the belief, filing a Mercy Petition on December 23, 2009. On August 26, 2010 he was informed that the Mercy Petition was not maintainable.
6. Petitioner filed OA No. 1772/2011 before the Tribunal laying a challenge to the penalty imposed. MA No. 751/2011 was filed praying that delay be condoned.
7. Taking the view that non statutory remedies would not entitle a person to delay being condoned, the Tribunal has dismissed OA No. 1772/2011; holding the same to be barred by limitation.
8. Suffice would it be to state that procedural laws, which would include the law of limitation, are required to be construed liberally, in so far the facts of a case permit, so as to give a meaningful remedy to the person concerned! Meaning thereby, law should strive towards a reasoned decision.
9. With this goalpost in mind, it needs to be highlighted that petitioner's non-statutory remedy availed of on December 23, 2009 was rejected on August 26, 2010 informing petitioner that the petition was not maintainable.
10. If respondents had acted with promptness and had informed the petitioner within reasonable time that he was knocking at the wrong door, the petitioner could have driven to the door of the Central Administrative Tribunal armed with an Original Application.
11. Since the petitioner was acting under a bona fide belief, albeit wrong, that he had a right to a non-statutory remedy and that the Department took more than 8 months to inform the petitioner that he was knocking at the wrong door, interest of justice would require it to be held that the facts of the instant case would justify delay to be condoned in filing the Original Application before the Tribunal.
12. Accordingly, disposing of the writ petition and setting aside the impugned order dated May 31, 2012 we allow MA No. 751/2011 condoning the delay in filing OA No. 1772/2011.
13. For record we would be noting that petitioner had sought a review of the order dated May 31, 2012 which was rejected by the Tribunal on August 22, 2012, which order is also set aside.
14. OA No. 1772/2011 is restored for adjudication on merits before the Tribunal.
15. Parties shall appear before the Registrar of the Tribunal on May 13, 2013. On

a formal application being filed at least a week prior thereto, the Original Application would be listed before a Roster Bench for adjudication.

16. No costs. Dasti.