



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**M.A. No.60/805/2017
O.A. No.60/576/2017**

Date of decision: 28.1.2020

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MS. NAINI JAYASEELAN, MEMBER (A).**

...

K.S. Nagra Son of Sh. Shonku Ram, KVS Yoga Teacher (Retired),
Resident of Village Chandi Kotia, P.O. Chandimandir Tehsil and
District Panchkula (Group C)

...APPLICANT

BY: SH. MANOJ CHAHAL, COUNSEL FOR THE APPLICANT.

VERSUS

1. Union of India through its Secretary, Ministry of Human Resource Department, Department of School Education and Literacy, New Delhi.
2. Kendriya Vidyalaya Sangathan, 18, Institutional Area, Saheed Ajit Singh Marag, NEw Delhi-110016 through its Commissioner.
3. Kendriya Vidyalaya Sangathan, Regional Office, SCO 72-73, Sector 31-A, Chandigarh-160030 through its Assistant Commissioner.

...RESPONDENTS

BY: SH. R.K. SHARMA, COUNSEL FOR THE RESPONDENTS.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. By means of present O.A., the applicant has challenged circular dated 3/11.2.1999 (Annexure A-11) and order dated 01.10.2015 (Annexure A-7), with a further prayer to grant him financial



upgradation on completion of 12/24 years of service, with all consequential benefit.

2. Along with the O.A. applicant has also moved application under Rule 8(3) of the Administrative Tribunals (Procedure) Rules, read with section 5 of Limitation Act, seeking condonation of 6676 days delay in challenging the aforesaid order.
3. This Court at the first instance issued notice in M.A. for condonation of delay.
4. We have heard learned counsel for the parties.
5. Sh. Manoj Chahal, learned counsel for the applicant vehemently argued that for the fault of the respondents, applicant cannot be penalized. He submitted that throughout his career, applicant has not been given financial upgradation. He joined as Yoga Teacher on 09.10.1981 and retired as such on attaining the age of superannuation. He has not been given any step up in financial terms pursuant to any Scheme for not getting any promotion. Thus, he prayed that the impugned orders, which restrict selection grade to applicant on the ground that the same is admissible to only those who were having qualification of graduation, are liable to be set aside.
6. Learned counsel for the respondents vehemently opposed the pleas and he submits that applicant has failed to explain huge delay. He argued that earlier case filed by the applicant i.e. O.A. No.525/HR/2009 was dismissed on 29.9.2010, wherein applicant had sought selection grade on the basis of qualification which he had acquired i.e. Hindi Sahitya Rattan (B.A. Hons) by treating the



same as equal to B.A. (Hons.) which was not accepted. At that time, the applicant should have challenged that order in appropriate forum and once he has not done so, he had forego his right to challenge and by present O.A. he cannot revive the cause which he has waived off as his right to challenge the same is no longer there.

7. We have given our thoughtful consideration to the entire matter.
8. We agree with the submissions made at the hands of respondents that Section 21 of the Administrative Tribunals Act, 1985 gives a window to employee to move application for condonation of delay in approaching the Court. However, as per interpretation given by the Apex Court one has to give compelling reasons for the same. Lordships have considered this in the case of **C. Jacob vs. Director of Geology and Mining & Anr.** 2009 (10) SCC 115 and subsequently in **Union of India & Ors. Versus M.K.Sarkar** (2010(2) S.C.C. Page 58) and then in the case of **Union of India & Ors. Versus A. Durairaj** J.T. 2011(3) S.C. 254, where they have held that belated and stale claims cannot be reopened at a later stage as employee slept over his right and does not approach the Court at the relevant point of time. Few words from the judgment in the case of **R.C. Samanta & Ors. vs. UOI & Ors.** JT 1997 (3) SC 418 "That delay deprives a person of the remedy available in law. A person, who has lost his remedy by lapse of time, loses his right as well".



9. In view of the aforesaid discussion, we are left with no option but to dismiss the application for condonation of delay along with O.A. No costs.

(NAINI JAYASEELAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 28.1.2020.
Place: Chandigarh.

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