

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2183 of 1996  
~~TAXATION~~

DATE OF DECISION 17.10.1996

S. K. Biswas

~~Petitioner~~ Applicant

Shri A. K. Bhardwaj

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Union of India & Ors.

Respondent<sup>s</sup>

Advocate for the Respondent(s)

### CORAM

The Hon'ble Mr. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN

The Hon'ble Mr. R. K. AHOOJA, MEMBER (A)

1. To be referred to the Reporter

(Justice C. Sankaran Nair)  
Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2183/1996

New Delhi this the 17th day of October, 1996.

HON'BLE SHRI JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN  
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

S. K. Biswas,  
Store Keeper/Main Store,  
Ordnance Factory,  
Muradnagar (UP).

... Applicant

( By Shri A. K. Bhardwaj, Advocate )

-Versus-

1. Union of India through  
Secretary, Ministry of Defence  
Production, Central Secretariat,  
South Block, New Delhi.
  2. The Director General/Chairman (OFB),  
Ordnance Factories,  
10, Auckland Road,  
Calcutta.
  3. The General Manager,  
Ordnance Factory, Muradnagar,  
Distt. Ghaziabad (UP).
- ... Respondents

The application having been heard on 17.10.1996  
the Tribunal on the same day delivered the  
following :

O R D E R

CHETTUR SANKARAN NAIR, J./CHAIRMAN —

Applicant seeks a direction to respondents to  
grant him the revised scale of Rs.330-480 with effect  
from 16.10.1981. Consequential and ancillary reliefs  
are also sought.

2. Counsel for applicant submitted that those  
similarly situated have been granted this benefit  
from time to time by reason of orders passed by  
different Benches of this Tribunal. Learned counsel

...2.

who argued the matter at very considerable length, referred to decisions on the point as also to the cases of Anil Kumar and Bhattacharjee who obtained benefits similar to those claimed herein. Delay cannot stand in the way of applicant as a recurring cause of action exists in the light of the decision in M. R. Gupta vs. Union of India (SCSLJ 1995 (2) 337), states counsel. We are unable to agree. We do not read M. R. Gupta's case to understand that a claim can be made at any distant point of time and that it is liable to be granted. Shri M. R. Gupta was vigilantly following his cause and on the facts of the case, the Apex Court granted relief.

3. To our mind, the law laid down by the Apex Court in a long line of decisions is to the effect that delay not only extinguishes rights, but also remedies. In Bhoop Singh vs. Union of India (AIR 1992 SC 1414), a situation where a large number of police officials were granted relief, while Bhoop Singh who lay dormant was denied relief, came up for consideration. J. S. Verma, J., speaking for the Bench observed :

"It is expected of a Government servant who has a legitimate claim to approach the Court for the relief he seeks, within a reasonable period. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years....the impact on the administrative set-up and on other employees is a strong reason to decline consideration of a stale claim....If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not

interested in claiming that relief....  
Accepting the petitioner's contention  
would unset the entire service jurisprudence  
and we are unable to construe Dharampal in  
the manner suggested by the petitioner.  
Art. 14 or the principle of non-discrimination  
is an equitable principle, and, therefore,  
any relief claimed on that basis must itself  
be founded on equity and not be alien to  
that concept. In our opinion, grant of the  
relief to the petitioner, in the present  
case, would be inequitable instead of its  
refusal being discriminatory...."

This view, has been consistently followed in later  
decisions. In State of Maharashtra vs. Dcamber  
(AIR 1995 SC 1991) and in Secretary to Government of  
India vs. Shivram Madhu Gaikwad (1995 SCC (L&S) 1148),  
the Court deprecated the practice of countenancing  
stale claims and ordering monetary reliefs.

4. Cognising belated claims would disturb existing  
state of affairs, involve unbudgeted expenditure to  
the Government, and perhaps promote stale claims from  
time to time. The legal principle upon which this  
reasoning is founded is, "law does not lend its arms  
to those who are not vigilant of their own rights."

5. The argument that some have been granted this  
benefit from time to time and that applicant may be  
granted the same relief, will lead to a situation  
where even less vigilant persons may surface from  
time to time, falling back on precedents that are  
created from time to time. At any rate, this is not

a fit case to exercise our discretionary jurisdiction in favour of applicant at this distance of time causing a drain on the taxpayer's money.

6. Applicant has a further case that the application was rejected only in 1996 and that there is no delay. The department dealing with a belated claim and passing an order thereon, cannot furnish applicant with a fresh cause of action. If his representation had not been promptly acted upon, Section 21 prescribes a time limit within which he should seek reliefs. The fortuitous event of a belated order from the Government cannot revive a cause of action which had already become extinguished in terms of Section 21.

7. We dismiss the application.

Dated, 17th October, 1996.

*R. K. Ahooja*  
( R. K. Ahooja )  
Member (A)

*Chettur Sankaran Nair, J.*  
( Chettur Sankaran Nair, J. )  
Chairman

/as/