

MA No. 388 of 2020 in OA No. 78 of 2020

Dr. Pradeep Raj Karat
vs.
Union of India& Or

Order reserved on 06.01.2020

Date of Order:01.02.2021

For applicant: Mr. Prateek Tushar Mohanty, counsel.

For respondents: Mr. R. K. Kanungo, counsel.

Mr. J. Pal, counsel.

ORDER

The applicant had filed the OA No. 78 of 2020 seeking grant of Non-Functional Financial Upgradation to the Senior Administrative Grade of 1992 batch with effect from 08.07.2013 in terms of the DOPT OM dated 24.07.2013.

2. It is stated in the MA No. 388/20 that the respondents were directed by the Tribunal vide order dated 07.08.2015 in OA No. 473/2015 to dispose of representations dated 03.04.2014 & 20.07.2015 of the applicant within two months but the same has not been done till now. The applicant was technically supposed to file this OA within one year from the expiry of period of receipt of copy of the order that is after 16.08.2015. The applicant submitted that he was busy in defending the false allegations made against him in charge sheet dated 07.08.2013 & 28.10.2013 as well as his suspension vide order dated 20.08.2013 which was continued till 30.05.2014 hence he could not find time to act on the present cause of action. The applicant submitted that the present case is that of a continuing cause of action as the applicant is yet to receive non functional financial upgradation to the Senior Administrative Grade w.e.f. 08.07.2013. He also further submitted that the delay if condoned would not affect any other person as there is no private individuals who would be adversely affected and therefore the delay may kindly be condoned.

3. The Respondent No.2 filed a counter reply affidavit and inter alia averred that since the applicant is an IFS officer posted in State of Odisha cadre (1992) batch working in Odisha and the disciplinary proceeding had been initiated against him by the State, Respondent No 4 has no role in the present case and is not a proper party to the case.

4. Respondent No. 2 in their objection to the MA submitted that the applicant case was taken up during 2013 for grant of Non-Functional Financial Up-gradation but was not granted as departmental proceedings were pending against him during that period. The respondents further submitted that the applicant's representation dated 20.07.2015 was a reminder to his earlier representation dated 03.04.2014 and it had been considered on 20.08.2015 for grant of Non-Functional Financial Up-gradation in terms of Note 3 of Rule 3 (1) of the IFS (Pay) Amendment Rules 2008 and in accordance with provisions of circular dated 16.03.2010 but after scrutiny of the case of the applicant, it was found that three nos. of DP were initiated against the applicant out of which one (Memorandum dated 07.08.2013) was finalized and the MoS

exonerated from the charges. Rest two DP (Memorandum dated 28.10.2013 & 07.08.2013) were still pending for which the representation dated 03.04.2014 and 20.07.2015 submitted by the applicant was rejected on 12.05.2017. The respondents further submitted that there is delay of seven years in filing the present OA which should not be condoned.

5. We have heard learned counsels for both the sides. The representation of the applicant was rejected on 12.05.2017 as seen from the submission of learned counsel for the respondents. He could have filed this instant case after that, but he has waited too long to file it. It may be stated that rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in individual actions, and Court/Tribunal naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester.

8. Accordingly we do not find sufficient reasons for condonation of the delay, hence the MA is dismissed and consequently the OA stand dismissed.

(ANAND MATHUR)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)