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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. No. 831 of 2010

Cuttack this the 16th day of July, 2014

CORAM

THE HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

THE HON'BLE MR. R.C.MISRA, MEMBER (ADMN.)

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1. Mukunda Charan Satpathy, aged about 50 years, S/o. Late Ratnakar Satpathy, presently working as Technician-G, in Heavy Water Plant, Talcher, Po.Vikrampur, Dist. Angul.

2. Artatrana Das, aged about 51 years, S/o. Late Anadi Charan Das presently working as Technician-F in Heavy Water Plant, Talcher, Po.Vikrampur, Dist. Angul.

...Applicant

(Advocates: M/s.S.Palit, A.K.Mohana, D.N.Pattnaik)

VERSUS

Union of India represented through -

1. The Secretary, Department of Atomic Energy, Anushakti Bhawan, C.S.M.Marg, Mumbai-400 001.

2. Chairman & Chief Executive, Heavy Water Board, V.S.Bhawan, 5th floor, Mumbai-400 094.

3. Officer on Special Duty, Heavy Water Plant, Talcher, Po.Vikrampur, Dist. Angul.

4. Assistant Personnel Officer (Establishment), Heavy Water Plant, Talcher, Po.Vikrampur, Dist. Angul.

... Respondents

Advocate: Mr.J.K.Khandayatray

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ORDER

A.K. PATNAIK, MEMBER (JUDICIAL):

Applicants, two in number, who are working as Technician G and F respectively in Heavy Water Plant, Talcher, in the district of Angul have filed this OA on 20th December, 2010 praying for quashing the Circular dated 14th December, 2010 issued by the Department of Atomic Energy, Heavy Water Plant Talcher, Angul inviting application for allotment of quarters as per the yardsticks fixed for allotment of quarters at HWP Talcher Housing Colony, taking into consideration the grade pays in terms of the Circular No.HWP/TAL/ADMN/EM/1557 dated 09.06.2010 with further direction to follow Office Memorandum dated 20th September, 2007 issued by the Government of India, Ministry of Urban Development, Directorate of Estates, New Delhi prescribing the licence fee for Central Government Residential accommodation throughout the country. Non consideration of their representation made to the competent authority was one of the grounds taken by the Applicants in their OA. Therefore, when the matter came up for the first time on 22nd December, 2010 this Tribunal while issuing notice by way of ad interim measure made

it clear that pendency of this OA shall not stand as a bar to consider and issue a reasoned order on the pending representation of the Applicants.

2. On 20th June, 2011, the Respondents have filed their counter after serving copy thereof on the other side, opposing the prayers of the applicants. The Applicants have also filed rejoinder on 6th August, 2012.

3. After closure of the hearing when it was brought to the notice of this Tribunal that though the Respondents, in compliance of the interim order of this Tribunal dated 22nd December, 2010 considered the representations but the same was rejected and communicated to each of the applicants in letters dated 26th February, 2011 and the applicants have not brought the same within the ambit and scope of this OA the matter was directed to be listed under the heading for being spoken to. Thereafter, ~~by filing~~ was filed MA No. 97 of 2014 on 5the February, 2014, in a casual manner, without enclosing copies of the letters which the applicants seek to incorporate and challenge in the OA by way of amendment.

4. Heard. Perused the records. When Competent Authority, after giving due consideration, rejected the grievance attributing some reason unless such reasons are shown by way of challenge, to be in any manner illegal or arbitrary, there is no scope for this Tribunal to decide this OA as it is. We find that the competent authority rejected the representations and communicated the reason of rejection in a well-reasoned orders dated 26th February, 2011. It is not the case of the applicants that they have not received such orders of rejection. Even if it is so, the same would not have saved them from delay and laches as the Respondents have filed their counter on 20th June, 2011 enclosing thereto copy of the said orders of rejection and the applicants have also filed their rejoinder on 6th August, 2012 i.e. almost after ONE YEAR from the date of filing of counter. This Tribunal is bound by the provisions of the A.T. Act, 1985. The provision made in Section 21 is couched in a negative language. It imposes an embargo for entertaining application if the same is not filed within the time prescribed under clauses (a) and (b). Of course under sub section (3) of Section 21, the Tribunal can admit an application after expiry of the period specified in sub section (2), if it is

satisfied that the applicant had sufficient cause for not filing the application within the prescribed period.

5. This is a matter of 2010 and by filing MA on 5th February, 2014, that too after closure of the hearing, the applicants seek to challenge the orders dated 26th February, 2011 without furnishing any convincing reason for such delay and laches. No separate application for condonation of delay has also been preferred by the applicants. Therefore, in our considered view that allowing the prayer made in the MA will tantamount to condoning the delay in an indirect manner which cannot be done directly and, therefore, will be against the provisions of the A.T. Act, 1985 and the law laid down by the Hon'ble Apex Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others Vrs T.T.Murali Babu**, reported in AIR 2014 SC 1141 which are quoted herein below:

> "Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered ad the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches

the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects activity and inaction on the part of a litigant- a litigant who has forgotten the basic norms, namely "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four y ears delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility and remained unautorizsedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with '**Kumbhakarna**' or for that matter '**Rip Van Winkle**'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold." (paragraph -16)

6. In view of the discussions made above, MA No. 97 of 2014 stands dismissed and consequently, OA falls to the ground and is accordingly dismissed. There shall be no order as to costs.

(R.C.Misra)
Member (Admn.)

(A.K.Patnaik)
Member (Judicial)