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OA No. 219/2009

B.P.Parichha Pattnaik .... Applicant  
Versus  
Union of India and Ors .... Respondents

1. Order dated 28.05.2009.

Having heard the rival submission of the parties perused the materials placed on record.

2. Fact of the matter in nut-shell is that the applicant was initially appointed as Guard 'C' on 03.05.1957 under the South Eastern Railway and deputed to Khurda and the respondents subsequently promoted him to the post of special Guard and finally on attaining the age of superannuation he retired from Railway service on 01.07.1996. According to him during his working tenure pay revision took place on the recommendation of the 5<sup>th</sup> Pay Commission but he was deprived of getting certain benefits accrued to him in the revised pay scale rules for which he approached this Tribunal in OA No. 320 of 2001 and as per the order of this Tribunal dated 07.08.2002 although he was sanctioned all his dues, the authorities deprived him the over time dues. Therefore, by filing this Original Application he prayed the following relief:

"(i) The payment of over time dues for the period from 08.05.1987 to 25.11.1988 may kindly be paid with interest and cost for 12 years delay of such payment."

3. It is seen that this Tribunal while disposing of the earlier Original Application in its order dated 07.08.2002 in regard to



payment of the over time allowance for the period from 08.05.1987 to 25.11.1988 directed as under:-

“So far as the OT claims is concerned, liberty is hereby granted to the Applicant to make a consolidated representation giving all details to the Respondents within a period of 15 days from now and in the event such a representation is filed by the applicant, the Respondents/Railways should cause a detailed investigation into the claims and pay him (applicant) all his OT dues as admissible under Rules, within a period of 90 (ninety) days thereafter.”

4. From the above it is clear that the Applicant claimed Over Time Allowance way back for the period from 08.05.1987 to 25.11.1988 by filing OA only in the year 2001. It is the case of the Applicant in spite of the order of this Tribunal no heed has been paid to his grievance by the Respondents. But he failed to explain as to why he sat over the matter for such a long time i.e. 13 years for his approach in OA No. 320/2001 and 21 years in the present OA. He has also not explained the delay in approaching this Tribunal from the earlier order of this Tribunal dated 7.8.2002 except stating that he submitted representation dated 18.06.2006 and 19.12.2008 but there has been no response.

5. The consistent view of the Hon'ble Apex Court is that no one in a service matter can sleep over his grievance for such a long time as in the present case and then come to court seeking a relief. Therefore, it has been held by the Hon'ble Apex Court in the case of **Chairman UP Jal Nigam v Jaswant Singh**, (2007) 1 SCC (L&S 500 that those who sit on the fence and wait for a favourable order and thereafter wake up to take up the matter are not entitled to any relief. No explanation for such delayed approach has been offered either in

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the OA or by filing separate application seeking condonation of delay. Further in the case of **C.Jacob -v- Director of Geology and Mining and Another**, AIR 2009 SC 264 the Hon'ble Apex Court held that rejection of representation in compliance of the order of Court cannot give life to a cause of action which is not sustainable even when the first application was filed.

6. In the result, with the observations made above, this OA stands dismissed.

7. Send copies of this order along with OA to the Respondents and free copies of this order be given to Learned Counsel for both sides.

  
(C.R.MOHAPATRA)  
MEMBER (ADMN.)

Knm, ps