

(3) 10
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00342 OF 2014
Cuttack this the 12th day of May, 2014

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (J)
HON'BLE MR. R. C. MISRA, MEMBER (A)

.....
Anjan Kumar Sarkar,
aged about 25 years,
Son of Late Dhirendra Nath Sarkar,
resident at Vill/Town- Panchaghanta,
P.S.Jaleswar, Dist. Balasore.

...Applicant
(Advocates: M/s. B.S.Tripathy, M.K.Rath, J. Pati, Ms. M. Bhagat)

VERSUS

Union of India represented through the
1. Cabinet Secretary,
New Delhi-110001.

2. Principal Controller of Defence Accounts (Pension),
Allahabad, Draupadi Ghat,
UP- 211014.

3. Garrison Engineer (I),
R&D, Chandipur, At/PO-Chandipur,
Dist. Balasore - 756025.

... Respondents
(Advocate: Mr. D.K.Behera)

ORDER (ORAL)

A.K.PATNAIK, MEMBER (JUDL.):

Heard Mr. B.S.Tripathy, Learned Counsel for the Applicant, and Mr. D.K.Behera, Ld. Addl. CGSC appearing for the Respondents, on whom a copy of this O.A. has already been served, and perused the materials placed on record.

2. The case of the applicant in nutshell is that he is the son of late Dhirendra Nath Sarkar, who while working under Respondents-department took voluntary retirement on medical ground w.e.f. 23.12.1996. Ld. Counsel

W. Alka

(4) 11

for the applicant submits that after the death of applicant's father on 20.02.1999, the family pension, which was being sanctioned in favour of Ashok Kumar Sarkar, the elder brother of the applicant, was suddenly stopped since November, 2003. However, after some correspondences with the Respondents, the applicant was re-authorized to receive pension by Respondent No. 3 vide his letter dtd. 06.02.2009. It is submitted by Ld. Counsel for the applicant that the applicant made representation dated 30.05.2011 to Respondent No.2 requesting for payment of due amount and grant of family pension. Having received no reply, he has filed another representation vide Annexure-A/10 to said Respondent No. 3 on 30.07.2011 but till date neither he has been communicated with any reply nor the family pension has been paid. By filing this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for sanction of family pension in his favour as well as for release of arrear dues with interest.

3. Mr. D.K.Behera, Ld. ACGSC appearing for the Respondents, submitted that at this stage he has no immediate instruction as to whether any such representation has really been preferred by the applicant and if so the status thereof.

4. We fail to understand as to how disposal of representation can take such a long time whereas the law laid down is right to know the result of the representation that too at the earliest is part of compliance of principle of natural justice and employer is also duty bound to look into the grievance of the employee as raised in the representation and reply him/her suitably without any delay. In the instant case, as it appears, though the applicant submitted representation ventilating his grievance way back on 30.05.2011

A.K.Sarkar
Signature

(Annexure-A/9) he has not received any reply or got the benefit till date.

Hon'ble Supreme Court of India in the case of S.S.Rathore-Vrs-State of Madhya Pradesh, AIR1990 SC Page 10 / 1990 SCC (L&S) Page 50 has held as under:

PARA -17. In this background if the original order of punishment is taken as the date when cause of action first accrues for purposes of Article 58 of the Limitation Act, great hardship is bound to result. On one side, the claim would not be maintainable if laid before exhaustion of the remedies; on the other, if the departmental remedy though availed is not finalised within the period of limitation, the cause of action would no more be justifiable having become barred by limitation. **Redressal of grievances in the hands of the departmental authorities takes an unduly long time.** That is so on account of the fact that no attention is ordinarily bestowed over these matters and they are not considered to be governmental business of substance. **This approach has to be deprecated and authorities on whom power is vested to dispose of appeals and revisions under the Service Rules must dispose of such matters as expeditiously as possible.** Ordinarily, a period of three to six months should be the outer limit. That would discipline the system and keep the public servant away from a protracted period of litigation.

PARA-20. We are of the view that **the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen.** We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. **Repeated unsuccessful representations not provided by law are not governed by this principle.**

PARA-21. It is appropriate to notice the provision regarding limitation under S. 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of



one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation.

In view of the above, while deprecating the action of the Respondent No. 2 for the delay in disposal of the representation of the applicant, without entering into the merit of the matter, we dispose of this OA, at this admission stage, with a direction to the Respondent No. 2 to consider and dispose of representation of the Applicant filed under Annexure- A/9 by a reasoned and speaking order and communicate the same to the applicant within a period of 60 days from the date of receipt of a copy of this order and if after such consideration it is found that the applicant is entitled to the benefits claimed by him, then expeditious steps be taken to release the same within a further period of 30 days therefrom. There shall be no order as to costs.

5. As agreed to by Ld. Counsel for both the sides, copy of this O.A., along with the copy of this order, be transmitted to Respondent No. 2 by Speed Post at the cost of the applicant, for which Mr. Tripathy, Ld. Counsel for the applicant, undertakes to furnish the postal requisites by 15.05.2014.


(R.C.MISRA)
MEMBER (Admn.)


(A.K.PATNAIK)
MEMBER (Judl.)