

Date of Order : 17.04.2003.

(1) MISC. APPLICATION NO. 94/2002

In

ORIGINAL APPLICATION No. 196/2002

(2) ORIGINAL APPLICATION No. 196/2002

Dr. A.K. Doshi, Ex. Member, Company Law Board, Government of India, Dalalon Ki Pole, Sirohi 307001 (Raj).

.....Applicant.

Versus

Union of India through Secretary to Government of India, Department of Company Affairs, Ministry of Law, Shastri Bhawan, 5th Floor, 'A' Wing, Dr. Rajendra Prasad Marg, New Delhi.

2. Joint Secretary to Government of India (Administration) Department of Company Affairs, Ministry of Law, Shastri Bhawan, 5th Floor, 'A' Wing, Dr. Rajendra Prasad Marg, New Delhi.

.....Respondents.

Applicant present in person.

Mr. N.M. Lodha, Advocate, present on behalf of the respondents.

CORAM :

Hon'ble Mr. J. K. Kaushik, Judicial Member

ORDER

BY THE COURT :

Shri A.K. Doshi, has filed this Original Application with a prayer of making payment of all outstanding dues relating to

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additional remuneration for the various period during which he was asked to look after full additional charge of additional posts.

2. With the consent of both the parties this case was heard for final disposal at admission stage. A short recital of the facts of this case would suffice for the decision. The applicant, while working on the post of ROC (West Bengal), was asked to look after the charge of the official Liquidator Office, Calcutta, on 18.1.1994 and by the Notification dated 9.4.1990 he continued for about one year but without any charge allowance. Similarly, he was asked to look after the full additional charge of the post of Regional Director, Kanpur, in the year 1994 and there also he continued for about one year. He was also asked to look after the full additional charge of Regional Director, Bombay, vide order dated 1.12.1995 and this charge he continued to hold up to 31.12.1997 when he was superannuated. As per the FR 49, he is entitled for further additional remuneration.

3. The O.A. has been filed on multiple grounds, e.g. undue delay, violation of Articles 14 and 16 of the Constitution, abuse of administrative power and denial of benefits which are vested right of an employee. He has also filed a M.A. for condonation of delay in filing of the O.A. on the following ground:-

"There has been delay in submitting original application. No reimbursement of medical claims have been made. The details have been given in the original application No...2002, hence, same are not repeated. This was all due to the respondents.

Applicant waited for substantial time for near about 5 years and lot of correspondence exchanged and letters written which is clear from the petition, but with no results. Applicant requests delay in submitting original petition may kindly be condoned, for, which applicant will be ever grateful."

4. The respondents have contested the O.A. and it has been averred that for the first time the applicant made a representation on 6.5.2002 whereas, the additional charges to the applicant was given during the year 1994, 1995 and 1999. Thus, the present application is not within the limitation. They have also countered the facts and grounds raised in the O.A. Their further defence as set out in the reply is that the applicant was asked to hold duel charge of two posts in the same cadre and carrying same scale of pay and no additional pay shall be admissible. It has been reiterated that the claim of duel charge after a lapse of twelve years, cannot be paid. Hence, the applicant has no case and the same deserves to be dismissed.

5. The respondents have filed a detailed reply to the M.A. for condonation of delay. It has been averred that a bare perusal of the application would show that only bald and vague statements have been made and no particulars much less details whatsoever have been given as to when the grievance arose by the applicant before the competent authority and why there has been delay of five years, thus, the same would not require any consideration by this Tribunal. The M.A. contains the main reason for delay in filing of the O.A. that no reimbursement of

medical claims have been made whereas, this case is not related to the medical claim but regarding payment of additional remuneration. This M.A. deserves to be dismissed.

6. I have heard the applicant who is present in person and Mr. N. M. Lodha, learned counsel for the respondents and have carefully perused the pleadings and records of this case.

7. At the very outset, the learned counsel for the respondents has vehemently opposed the case of the applicant mainly on the ground of limitation and has submitted that the application is highly belated and no explanation whatsoever is forthcoming for the delay. He has also submitted that the M.A. is also otherwise misconceived and misconstrued. It does not contain any explanation whatsoever regarding the delay. In fact, there is a misstatement of fact that no re-imbusement was made towards the medical bills which has no relevancy to this case. The cause of action to the applicant if at all arisen, relates to the year 1990-1997. He has also submitted that otherwise also, the O.A. is not maintainable for want of jurisdiction inasmuch as the cause of action has arisen to the applicant outside the jurisdiction of this Tribunal.

8. On the contrary, the applicant has submitted that as per Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987, the applicant is residing at Sirohi, which is well within the jurisdiction of this Tribunal. He is a retired person and after retirement, an employee is entitled to file his case before a

Bench of the Tribunal within whose jurisdiction he ordinarily resides. However, he has submitted that the respondents have not taken any such objection in their counter reply and the same cannot be entertained.

9. In my opinion, the law position is very clear as regards the jurisdiction and this Tribunal has jurisdiction in the present matter, since there is no dispute that the applicant is ordinarily residing at Sirohi which is within the territorial jurisdiction of this

Bench.

10. As regards the limitation the applicant has not been able to countenance and substantiate his contentions. He has been making only the precarious assertions and has placed reliance on various judgements mentioned in Para 1 (b) and (c) of the rejoinder to reply wherein, the case of the **Collector, Land Acquisition, Anantnag and another Versus Katiji and others reported in (1987) 2 SCC 107 and Rajendra Prasad and Another versus State of Punjab and Others reported in AIR 1966 Punjab 185**, have been referred to. I have perused these authorities but the case of the applicant is distinguishable on facts and the statement of law laid down therein, has no application to this case.

11. In my considered opinion, there is inordinate delay in filing of O.A. and there is no reason least to say good and sufficient reason for condonation of the delay, therefore, the

delay cannot be condoned and the M.A. No. 94/2002 for condonation of delay merits rejection.

12. Since I have come to a firm conclusion that the delay in filing of the O.A. cannot be condoned, no purpose would be served in examining/deciding the case on merits, therefore, the O.A. and the M.A. stands dismissed. There shall be no order as to cost.

sd/-
(J.K.Kaushik)
Member (J)

JRM

Yashpal
21/4/08

Recd

Yashpal
22/4/08

Part II and III destroyed
in my presence on 14.7.08
under the supervision of
section officer as per
order dated 5/2/08

NGDA
Section officer (Record)

Recd
Santosh Kumar
22/4/08
for M. J. Dabla
J.D.