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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

OA No. 337/2012 with MA 172/2012
Jodhpur this the 25th day of September, 2013.

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J) and
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Dr Aminu Deen S/o Shri Buklaki Khan, aged about 53 years, resident of 4-E-152, Jai Narain Vyas Colony, Bikaner, last employed on the post of Principal Scientist in Central Sheep and Wool Research Institute, Malpura, Avikanagar – 304 501 Distt. Tonk, (Raj).

.....Applicant

(Through Advocate Mr Rajeswar Vishnoi)

Versus

1. Indian Council of Agriculture Research through its Secretary, Krishi Bhawan, New Delhi.
2. Dr K M L Pathak, Dy. Director General, Animal Science, I C A R, Krishi Bhawan, New Delhi.

(Through Advocate Mr Avinash Acharya)

..... Respondents

ORDER (Oral)

Per Justice Kailash Chandra Joshi, Member (J)

Heard on MA. The applicant by way of this OA has challenged the legality of the Annual Assessment Report (AAR) for the year 2007-08 i.e. from 01.04.207 to 31.03.2008. The applicant by way of MA bearing No. 172/2012 has prayed to condone the delay in filing the OA.

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2. The applicant has averred in the MA that he was placed under suspension on 11.09.2008 without any fault on his part but on the ground that he challenged the selection of respondent No. 2 at this Tribunal vide OA No. 105/2007 which was under trial at that time. The charge sheet was issued to the applicant for non-existing incidence and operation, which was contradicted by prosecution itself and inquiry report was submitted. The inquiry report was examined without jurisdiction and penalty order was passed without application of mind and nobody at the ICAR is listening to this illegal act against him for the last 4 years. This Tribunal has passed an order in OA No. 189/2010 without considering the issue raised in the OA and without confirming these illegalities from case file despite being prayed for by the applicant and the same is being challenged through writ in the Rajasthan High Court. Looking to these adverse circumstances, the applicant could not find time to challenge the AAR for the year 2007-08 during which applicant has done commendable research work leading to birth of Artificially Inseminated camel calves in India besides researches on many other vital aspects as mentioned in the AAR. But the respondent No. 2 with malice due to his selection being challenged at judicial platform has written adverse comments. The applicant, therefore, prayed to condone the delay in filing the OA.

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3. The respondents have filed reply to the OA as well as MA and averments made by the applicant have been denied.

4. We have perused the MA and heard both the parties.

5. Counsel for the applicant contended that during the period of 4 years i.e. 01.04.2008 to 07.05.2012, the applicant remained busy in contesting other cases, defending himself in false charge sheet and inquiry proceedings initiated against him, therefore, the applicant could not file the OA in time.

6. Per contra counsel for the respondents contended that the grounds mentioned in the MA are not justifiable to condone the delay.

7. We have pondered over the arguments advanced by both the parties. It is general principle of law that matter should not be decided on technical grounds of limitation but looking to the peculiar facts of the case and particularly that the applicant has retired from service w.e.f. 22.06.2010 and after lapse of 2 years after his retirement he preferred this OA. Therefore, averments made in the MA are not correct to the extent that even after 22.06.2010 he remained busy in the official work. Further, it is pertinent to note that this OA alongwith some other OAs have been filed by the applicant himself from which it can be inferred that the

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applicant is well qualified and knowledgeable person and it cannot be said that due to lack of knowledge or ignorance of law, the applicant could not file the OA within time.

8. Looking into the facts and circumstances of the case, particularly that the applicant had been retired from service in June, 2010, we are not inclined to condone the delay in filing the present OA. Accordingly, MA No. 172/2013 is rejected. Hence, OA is dismissed being barred by limitation.

9. There shall be no order as to costs.


(MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER


(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER

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