

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.445/97

Friday this the 11th day of April, 1997.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. T.B. Hentry,  
working at B.W.W.F. Dispensary as  
Dresser cum-Attendant, Adkathabail,  
Kasargod District.

2. K.Soumini, working at  
B.W.W. Dispensary as Dresser cum-  
Attendant, PO. Nileshtar,  
Kasargod District.

3. M.Sarada,  
working at B.W.W. Dispensary as Dresser-cum-  
Attendant, PO. Thana,  
Kannur District.

4. T.Bhaskaran, working at  
B.W.W. Dispensary as Dresser-cum-  
Attendant, PO. Palayad,  
Tellichery.

5. C.Unnimadhavan Nair,  
working at B.W.W.Dispensary as Dresser-cum-  
Attendant, PO. Kondotty,  
Malappuram Dist.

6. Syamaladivakaran,  
working at B.W.W. Dispensary as  
Dresser-Cum-Attendant, PO.Alathur,  
Palakkad District.

.... Applicants

(By Advocate Mr. V.V. Surendran)

Vs.

1. Welfare Commissioner,  
Labour Organisation, Ministry of Labour,  
Government of India, No.75 Basareswaran Road,  
Banglore-52.

2. Director General (LW), Government of India,  
Ministry of Labour,  
Jaisalmer House, Mansingh Road,  
New Delhi-11.

3. Secretary, Ministry of Labour,  
Nirman Bhavan, New Delhi.

.... Respondents

(By Advocate Mr. James J. Nedumpara for Mathews J. Nedumpara)

The application having been heard on 11.4.1997, the  
Tribunal on the same day delivered the following:

contd...

O R D E R

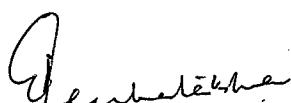
HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The grievance of the applicants who are Dressers-cum-Attendants is that the enhanced washing allowance is not being paid to them as per instructions contained in A-1 dated 28.11.95. They filed this application for a direction to respondents to do so.

2. When the matter came up for hearing learned counsel for respondents stated that the matter is still under consideration of the competent authority and that it will be sufficient if the application is disposed of with a direction to the respondents to take an appropriate decision in the matter within a reasonable time frame. The learned counsel for applicant is agreeable to this course.

3. In the light of the above submission of the learned counsel at the Bar we dispose of the application with a direction to the respondents to consider the enhancement of washing allowance of the category of applicants in accordance with the instructions contained in the memorandum dated 28.11.95, to take a final decision in the matter within a period of two months from the date of receipt of a copy of this order and if on such consideration the respondents find that the applicants are entitled to get the allowance to make available to them the monetary benefits flowing therefrom within a period of one month from the decision. No costs.

Dated the 11th day of April, 1997.

  
P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

ks.

LIST OF ANNEXURE

Annexure A-1 : True copy of the Memorandum No.  
CGHS-NI/Washing allowance 1488  
dated 28-11-95 of the Deputy  
Director of Central Government  
Health Scheme.

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CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

M.A.No.283/98 &  
M.A.No.284/98 in  
O.A.No.445/97

Thursday this, the 13th day of August, 1998.

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. Welfare Commissioner,  
Labour Welfare Organisation,  
Bangalore -560052.
2. Director General(LW),  
Ministry of Labour,  
Jaisalmer House,  
New Delhi-11. ..Miscellaneous  
Applicants

(By Advocate Mr.Mathews J.Nedumpara, ACGSC)

vs.

1. T.B.Hentry, Thekkeparambil House,  
Vannapuram, Thodupuzha, Idukki.
2. K.Soumini, Kunnupurathmeethel House,  
P.O.Thiruvagu, Tellicherry, Kannur.
3. M.Sharada, Madapurakkal House,  
Koothuparamba, Kannur.
4. T.Bhaskaran, Thudiyil House,  
P.O.Chala West, Kannur.
5. C.Unnimadhavan Nair, Chettiankandi House,  
P.O.Atholi, Quilandi,  
Kozhikode.
6. Syamala Divakaran, Chandralayam House,  
Panayil P.O., Noornad, Alappuzha. ..Respondents

The M.A. having been heard on 10.8.98, the Tribunal on  
13.8.98 delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

M.A.No.284/98 is a Miscellaneous Application filed by  
the respondents in the Original Application purported to  
have been filed under Rule 8 of the C.A.T.(Procedure)  
Rules. The prayer in this Miscellaneous Application is for  
grant of a further time of three months to comply with the  
final order of the Tribunal dated 11.4.97 in the O.A. The

Original Application was disposed of with a direction to the respondents to consider the enhancement of washing allowance of the category of applicants in accordance with the instructions contained in the memorandum dated 28.11.95, to take a final decision in the matter within a period of two months from the date of receipt of a copy of that order and if on such consideration, the respondents find that the applicants were entitled to get the allowance to make available to them the monetary benefits flowing therefrom within a period of one month from the decision. As the matter required consideration at various levels in consultation with the various Ministries, finding that it would not be possible for the respondents to implement the directions within the time stipulated, the miscellaneous applicants before the expiry of the period prescribed in the order of the Tribunal filed M.A.No.776/97 for extension of time. M.A.No.776/97 was allowed and 3 months further time was granted for implementation. That period of 3 months expired on 22.10.97. Finding that it would not be possible to implement the directions in full before the expiry of the extended period also, the miscellaneous applicants/respondents had filed another M.A.No.1146/97 for extension of time by 3 months. That M.A. was also allowed vide order dated 3.11.97 granting 3 months further time from 22.10.97 for proper and complete implementation of the directions contained in the order making it clear that no further extension of time would be granted for the purpose. Without implementing the directions contained in the order within the period of 3 months from 22.10.97, the Miscellaneous Applicants have on 4.2.98 filed the M.A.No.284/98 for a further extension of time by three months.

It is alleged in paragraph 4 of the Miscellaneous Application that the extension of time granted by order dated 3.11.97 would expire on 3rd February 1998 while in the order dated 3.11.97 in M.A.No.1146/97 it was clearly stated that 3 months time from 22.10.97 was granted.

2. Since the M.A.No.284/98 was presented only after the expiry of the time for implementation of the directions contained in the order of the Tribunal as granted by the order in M.A.No.1146/97, the counsel of the applicants has filed M.A.No.283/98 for condonation of delay of 13 days. In the affidavit filed in support of the Miscellaneous Application, learned counsel of the miscellaneous applicants have stated that the time granted by the Tribunal for implementation of the order vide order dated 3.11.97 being 3 months from 22.10.97 expired on 22.1.98 and that for certain lapse, the M.A. for further extension of time could be presented only on 4.2.98. On the ground that the delay was not intentional, it has been prayed that the delay of 13 days in submitting the M.A. for extension of time may be condoned.

3. We have heard the learned counsel and perused the miscellaneous applications and other relevant materials. The points arise for consideration are :

1. Whether the miscellaneous application No.283/98 seeking condonation of delay in filing M.A.No.284/98 is maintainable ?
2. Whether the miscellaneous applicants in M.A.No.284/98 are entitled to further extension of time ?

We shall consider the 1st point first. The only provision in the Administrative Tribunals Act, 1985 hereinafter referred to as 'the Act' regarding the power of the Tribunal to condone the delay and admit an application is sub-section 3 of Section 21 which reads as follows:

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"(3) Notwithstanding anything contained in sub-section(1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

The powers as are vested in the Civil Courts under the Code of Civil Procedure, 1908 exercisable by this Tribunal have been enumerated in sub-section 3 of Section 22 of the Act which reads as follows:

"(3) A Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908(5 of 1908), while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872(1 of 1872), requisitioning any public record or document or copy of such record or document from any office;
- (e) issuing commissions for the examination of witnesses or, documents;
- (f) reviewing its decisions;
- (g) dismissing a representation for default or deciding it ex parte;
- (h) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
- (i) any other matter which may be prescribed by the Central Government."

The power of the civil court under Section 148 of the C.P.C. for granting enlargement of time fixed or granted by the court for doing of any act prescribed or allowed by the court in its discretion from time to time is not exercisable by the Tribunal. Therefore, we find that excepting for the purpose of Section 21, there is no other provision in the

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Administrative Tribunals Act which empowers the Tribunal to condone the delay. As the Administrative Tribunals Act, 1985 is a complete Code in itself the provisions of the Limitation Act are not applicable to proceedings under it.

4. Assuming that the general principles of the Limitation Act may be applied, can it be said that the Miscellaneous Application No. 283/98 is one in the nature of an application for condonation of delay similar to an application under Section 5 of the Limitation Act? Section 5 of the Limitation Act reads as follows:

"5. Extension of prescribed period in certain cases -

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period."

In this case the applicants seek condonation of delay in filing a miscellaneous application for extension of time for implementation of the order. Neither in the Act nor in the order of the Tribunal a period has been prescribed for filing a Miscellaneous Application for enlargement of time prescribed by the Tribunal for implementation of the directions contained in the final order in the Original Application. Period was fixed in the order of the Tribunal for implementation of the directions and not for filing a miscellaneous application. Therefore, M.A.No. 284 of 1998 for condonation of delay is misconceived and not maintainable.


5. We shall now consider the next question. The miscellaneous applicants had been by the order dated 11th April 1997 directed to take a final decision in the matter within two months and to make available to the applicants in



the Original Application the benefits if any flowing from the decision within a period of one month thereafter. As the respondents/Miscellaneous Applicants found that it would not be possible for them to implement the directions within the time stipulated, they well in advance filed M.A. No.776/97 for extension of time. Finding that it would still be impossible to fully implement the directions even before 22.10.97, the extended time, the Miscellaneous Applicants sought extension by 3 months in M.A.No.1146/97 before 22.10.97. By order dated 3.11.97 in the M.A., 3 months time from 22.10.97 was granted with a specific order that no further time would be granted for implementation of the order. In spite of that, if for any reason, then Miscellaneous Applicants felt that complete implementation would not be possible before 22.1.1998 they should have sought enlargement of time before the extended time expired. Instead the Miscellaneous Applicants wrongly alleging that the time granted in the order in M.A.No.1146/97 was upto 3.2.98 while it really was only upto 22.1.98 filed the M.A.No.284/98 for further extension of time on 4.2.98. The prayer for enlargement of time for implementation of the directions in the final order of the Tribunal is being granted by the Tribunal invoking the powers under Rule 24 of the C.A.T.(Procedure) Rules, which reads as follows:

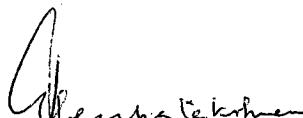
"24. Orders and directions in certain cases - The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."


Though there is a view that after a final order is passed by the Tribunal it becomes functus officio and no Miscellaneous Application for directions would lie, Rule 24 is invoked in



suitable cases to give directions so that the Tribunal's orders are given effect to and in the ends of justice. It would be an abuse of the process of the Tribunal if Rule 24 is invoked for not giving effect to the orders of the Tribunal. As per the order in M.A.No.1146/97 three months from 22.10.97 was given "for proper and complete implementation of the directions contained in the order, making it clear that no further time shall be granted for this purpose". The miscellaneous applicants who are bound by the order did not comply with the order even 3 months after 22.10.97. After three months from 22.10.97 was over on 4.2.98 the present M.A. was filed for further extension of time beyond 22.1.1998. In effect the prayer in the M.A. is not to give effect to the order of the Tribunal in M.A.No.1146/97 passed on 3.11.97. This, according to us, is not permissible under Rule 24 of the C.A.T.(Procedure)Rules. No other enabling provision is brought to our notice. The Miscellaneous Applications therefore deserve to be dismissed. In the light of what is stated above, both the Miscellaneous Applications are dismissed.

Dated the 13th August, 1998.

  
P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN