

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 97 of 2011

...Tuesday.., this the 15th day of May, 2012

CORAM:

HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

M.P. Basheer,
Mayam Pokakada House,
Kavaratti Island,
Union Territory of Lakshadweep : 682 555

... Applicant.

(By Advocate Mr. V.V. Suresh)

v e r s u s

1. Union of India represented by
The Secretary to the Govt. of India,
Ministry of Medical and Health Services,
New Delhi : 110 001.

2. Director Lakshadweep Administration,
Union Territory of Lakshadweep,
Kavaratti : 682 555

3. Director of Medical and Health Services,
Administration of Union Territory of
Lakshadweep, Kavaratti : 682 555

... Respondents.

(By Advocate Mr. S. Radhakrishnan for R2 & 3)

This application having been heard on 04.04.2012, the Tribunal on
15/05/2012 delivered the following:

ORDER

By HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

This O.A. has been filed for a declaration that the applicant is entitled to the pay scale of Rs. 5500-9000 of the Health Inspector Grade-1 from the date of awarding the 1st ACP in the year 1993 instead of the scale of pay of Rs. 4500-7000 and for all consequential benefits.



2. The applicant has filed this O.A on 03.02.2011 contending that he was eligible to be granted the 1st financial upgradation in the pay scale of Rs. 5500-9000 in the year 1993. He was granted the 2nd financial upgradation on 09.07.2007 to the scale of Rs. 5500-9000. He claims that he is eligible to get the 2nd financial upgradation to Rs. 6500-10500 in 2007. He took voluntary retirement on 31.03.2010.

3. Heard and perused the records.

4. In a case relating to the payment of fixation of pay, the denial of benefit occurs every month when pension is paid and a fresh cause of action arises every month. However, the cause of action for the applicant arose in the the year 2000 when the order granting him the first financial upgradation under the ACP Scheme with effect from the year 1993 was issued, but the the O.A. was filed in 2011. He woke up from the deep slumber of 7 or 8 years only in the year 2011. He was not at all diligent for which he has to blame himself alone. Filing of representation is not a remedy. It can not be an excuse for the delay in filing the O.A. There is no cogent reason for condoning the delay in filing this O.A. In fact, no application for condonation of delay in filing this O.A. within the statutory period, is filed As held by Hon'ble Supreme Court in *State of Orissa vs. Mamata Mohandi*, (2011) 3 SCC 436, even though getting a particular pay scale may give rise to recurring cause of action even then if there is unexplained and inordinate delay, the petition can be dismissed on the ground of delay and latches alone. Therefore, we hold that this O.A is hit by limitation.



5. Being barred by limitation, this O.A is dismissed without going into the merits of the case. No order as to costs.

(Dated, the 15th May, 2012)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.