

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO:328/2000  
DATED THE 20TH DAY OF AUGUST,2001

CORAM:HON'BLE SHRI JUSTICE ASHOK C AGARWAL, CHAIRMAN  
HON'BLE SHRI G.C.SRIVASTAVA, MEMBER(A)

Shri B.N.Pandey,  
E/303-"Sumer Nagar"  
Opp.Kora Kendra,  
S.V.Road, Borivili(West),  
Mumbai - 400 092.

... Applicant

By Advocate Shri P.A.Prabhakaran

V/s.

1. Union of India through  
The Secretary, Department of Revenue,  
Ministry of Finance,  
North Block, New Delhi-110 001.
2. The Chairman,  
Central Board of Direct Taxes,  
North Block, New Delhi-110 001.
3. The Chief Commissioner of Income-Tax,  
Mumbai, 3rd Floor, Aayakar Bhavan,  
M.K.Road, Mumbai - 400 020.
4. The Commissioner of Income-Tax,  
City-I, Mumbai, 3rd Floor,  
Aayakar Bhavan, M.K.Road,  
Mumbai - 400 020.

... Respondents

By Advocate Shri V.G.Rege

(ORAL)(ORDER)

Per Justice Ashok C Agarwal, Chairman

The applicant who was holding the post of Income Tax Officer was promoted to the grade of Assistant Commissioner of Income Tax vide order No.76/98 of 11/6/98 at Annexure A. By the present OA he seeks the aforesaid promotion with effect from March,91 when others similarly placed have been promoted or from June, 1993 <sup>when</sup> ~~vide~~ OM No.22022/4/91-EST(D) dated 14/9/92 came into force (page-28).

...2.

2. The present OA we find is barred by limitation as the same has been instituted belatedly on 11/4/2000. Applicant no doubt has filed MP-784/2000 containing the prayer for condoning the delay. The ground for condoning delay, we find is without any substance. All that is mentioned is as under:-

The delay of the completion of proceedings and the impending date of superannuation dissuaded the applicant from making any application in the matter. This OA is now filed on the basis of the decision in OA 168/94 and the extension of the retirement age. Under the circumstances for the sake of maximum justice the applicant prays that the delay may be kindly condoned and the prayer considered on its own merits.

3. Aforesaid averments we find are both meaningless and unsustainable. Our attention is drawn to para-4.8 of the OA which contains the following averments:-

4.8 Then, the applicant was made aware of the provision under the OM dated 14/9/92, which the respondents have not considered in the applicant's case at all. Even if it is possible to hold that the applicant is late for seeking any relief under the said OM, the applicant was advised that such delay has to be or will be set off against the factual delay on the part of the respondents and the provisions under Rule 14 of the CCS(CCA)Rules, 1965. The true position is as is brought out in the following chart.

Steps in proceeding from Appointment of Inquiry Officer	Time	
	Allowed by Rules	Actually taken


(1) Preliminary Hearing	Rule 14(7) From the appointment of 10 days extendable by not exceeding 10 days	2 years 1 month & 24 days. 24/5/88 to 18/7/90.
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...3.

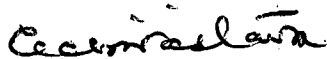
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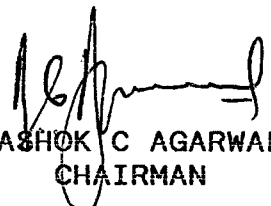
(2) Production of  
listed documents  
by the P.O.

Rule 14(11) 2 years,  
-30 days 2 months  
from the & 20 days  
date of the from  
Preliminary 18/7/90  
hearing to  
extendable 7/10/92.  
by 30 days

4.  <sup>Aforesaid</sup>  
~~From the provision of the~~ averments contained in the MP,  
we find <sup>are</sup> ~~that aforesaid averments~~ is not relevant to the delay  
caused in filing the OA. Aforesaid OM of 14/9/92 is also not  
applicable.

5. In view of the aforesaid observation, the present OA is  
dismissed as barred by limitation. No order as to costs.

  
(G.C. SRIVASTAVA)  
MEMBER(A)

  
(ASHOK C AGARWAL)  
CHAIRMAN

abp