

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

09.01.2012

OA No. 474/2011 with MA 366/2011

Mr. S.K. Sharma, Counsel for applicant.

Heard the learned counsel for the applicant on MA No. 366/2011 for seeking of condonation of delay in filing the present OA. It is not disputed that the applicant claimed relief for placement/promotion in LSG and HSG with effect from 04.08.1966 and 19.05.1981 respectively when the said benefits were given to the person junior to the applicant with all consequential benefits. It is also not disputed that the applicant on attaining the age of superannuation retired in the year 1987. From 1987 till date, the applicant has not claimed any relief, which has been extended in favour of certain other persons, well within time when the cause of action was available in the year 1966 and subsequently in the year 1981. It appears that the applicant wants to take the advantage of the order dated 18.05.2011 passed in TA 29/2009 after the lapse of such a long period but in the ratio decided by the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others** decided on 07.03.2011 [Petition for Special Leave to Appeal (Civil) 7956/2011], this Tribunal has to examine the issue whether the OA is within the limitation and then to decide the matter on merit. The Hon'ble Supreme court in the case of D.C.S. Negi has held that:-

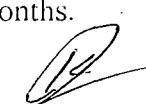
“Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:-

“21. Limitation.-

(1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as it mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.



(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

The application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(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."

A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clause (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3)."

Having considered the MA for seeking condonation of delay in filing the OA, the inordinate delay has not been explained by the applicant. Therefore, in view of the ratio decided by the Hon'ble Supreme Court in the case of D.C.S. Negi, the MA for seeking condonation of delay in filing the OA is bereft of merit and is dismissed.

Consequently the OA also stands dismissed.

Anil Kumar
(Anil Kumar)
Member (A)

K. S. Rathore
(Justice K.S. Rathore)
Member (J)

ahq