

3

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

17.07.2012

OA No. 441/2012 with MA 194/2012

Applicant present in person.

Heard. The OA as well as MA are disposed of by a separate order.

Anil Kumar
(Anil Kumar)
Member (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

Jaipur, the 17th day of July, 2012

ORIGINAL APPLICATION No. 441/2012

With

MISC. APPLICATION NO. 194/2012

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

N.B. Khandelwal son of Late C.B. Khandelwal, aged 63 years, resident of I-E-162, 163, Prem Nagar, Jhotwara, Jaipur (Rajasthan).

... Applicant

Applicant in person.

Versus

1. Union of India through Secretary, Ministry of Labour, Government of India, New Delhi.
2. The Central Provident Fund Commissioner, Bhikaiji Kama Palace, New Delhi - 110066.
3. The Regional Provident Fund Commissioner, "Nidhi Bhawan", Jyoti Nagar, Jaipur, Rajasthan - 302 005.
4. The Commissioner, Sub Regional Office, Employees Provident Fund Organisation, Paschim Pal Vistar Yojana, Opp, Shankar Nagar, Jodhpur, Rajasthan - 342 008.
5. The Commissioner, Sub-Regional Office, Employees Provident Fund Organisation, "Nidhi Bhawan, Vigyan Nagar, Kota, Rajasthan- 324 005.

... Respondents

(By Advocate: -----)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"the application of the humble applicant be accepted and allowed with cost and respondents be ordered to pass the long pending traveling expenses including adjustment bills without any further delay and pay the difference amount and also the amount deducted from the gratuity on account of this reason to the applicant with interest at the market rate and make good for the loss and also pay compensation for mental agony and harassment on the above grounds among others."

Anil Kumar

2. Heard the applicant in person on MA No. 194/2012 which the applicant has filed for condonation of delay. According to the applicant, 55 traveling expenses bills including adjustment bills are still pending with the respondents. These bills are of different dates and different period. Thus as per the details given in Annexure A/3, these TA bills are for the period from 1998-1999 upto the date of his retirement i.e. April, 2004. Thus these bills are 14 years to 8 years old.

3. The applicant argued that he has given several representations to the respondents to settle his TA Bills. He was given assurance that his TA bills would be settled and to avoid litigation, he refrained from filing the OA for redressal of his grievances. He further argued that even if the delay is supposed to have taken place, the delay is excusable and explainable on account of the submission of the application under Right to Information Act to the Appellate Authority.

4. Heard the applicant and carefully perused the documents on record. Looking to the facts and circumstances of the case, the applicant has failed to justify delay. The TA bills are more than 8 years old. No reasonable ground has been given in the MA No. 194/2012 for condonation of delay in filing the OA.

5. 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] held that:-

Anil Kumar

"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."

Anil Kumar

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)."

6. Consequently, in view of the judgment of the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others**, I am of the view that the Misc. Application for seeking condonation of delay deserves to be dismissed and the OA also deserves to be dismissed on account of delay & latches.

7. Accordingly, the OA as well as MA are dismissed with no order as to costs.

8. However, it is made clear that the respondents are at liberty to settle the TA bills of the applicant according to the provisions of law and order passed in this OA will not come in their way to consider the pending TA bills of the applicant.

Anil Kumar
(Anil Kumar)
Member (A)

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