

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL


13.12.2013


OA No.809/2013

Mr. Dharmendra Jain, Counsel for applicant.

Heard learned counsel for the applicant.

The OA is dismissed by a separate order.


(Arvind Rohee)
Member (J)


(Anil Kumar)
Member (A)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION No. 809/2013

Jaipur, the 13th December, 2013

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER
HON'BLE MR. A.J. ROHEE, JUDICIAL MEMBER

Hari Narayan Regair son of Shri Ram Dev by caste Raigar, aged about 60 years, resident of Shastri Colony, Railway Station, Malpura, District Tonk (Rajasthan).

... Applicant

(By Advocate: Mr. Dharmendra Jain)

Versus

1. The Managing Director, Indian Agricultural Research Institute, I.C.A.R., Kishori Bhawan, New Delhi.
2. The Director, Central Sheep and Wool Research Institute, Avika Nagar, Malpura, District Tonk (Rajasthan).

... Respondents

(By Advocate: -----)

ORDER

PER HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

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

- (i) By an appropriate order or direction in nature thereon, thereby the respondents be directed to decide the representation of the applicant with a reasoned order within a period of three months and petitioner be taken back in service with all benefits.
- (ii) By an appropriate order or direction in nature thereof, thereby quash and set aside the letter dated 19.8.2013 (Annexure A/1) and order dated 07.05.1977 (Annexure A/2).
- (iii) Any other order or direction which this Hon'ble Tribunal deems fit and proper and just in the facts and circumstances in the case may also be passed.

Anil Kumar

2. By way of this OA, the applicant is challenging the impugned order dated 07.05.1977 by which the appointment of the applicant was cancelled without showing any reason.

3. 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:-

"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,

Anil Kumar


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.

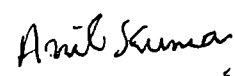
- (3) Notwithstanding anything, contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies 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)."

4. The present OA has been filed after 36 years of impugned order dated 07.05.1977. The applicant has not been able to show sufficient cause as to why this OA has been filed after such inordinate delay. Therefore, in view of the judgment of the Hon'ble Supreme Court in the case of **D.C.S. Negi vs. Union of India & Others**, we are of the view that the OA deserves to be dismissed on account of inordinate delay.

5. Accordingly, the OA is dismissed with no order as to costs.


(A.J. Rohee)
Member (J)
AHQ


(Anil Kumar)
Member (A)