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CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

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**ORIGINAL APPLICATION NO.060/00131/14 and
MA 060/00231/2014
Chandigarh, this the 17TH Day of July, 2014**

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A).
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J).**

Pritam Chand son of Shri Munshi Ram, Resident of Village Raipur, Post Office Raipur, Pinjore Block, District Panchkula (Haryana State).

...**APPLICANT**

VERSUS

1. Union of India through the Secretary, Ministry of Defence, South Block, DHQ-PQ, New Delhi-110011.
2. The Director General, E.M.E. Army Headquarters, Sena Bhawan, DHQ P/O, New Delhi.
3. The Maj. General, MG EME, Headquarters, Western Command (EME), Chandimandir, District Panchkula.
4. The Officer Incharge, EME, Army Headquarters, New Delhi.
5. The Officer Commanding, Station Workshop, EME, Chandimandir, District Panchkula.

...**RESPONDENTS**

Present: Sh. K.L. Dhingra, counsel for the applicant.
Sh. Suresh Verma, counsel for the respondents.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

"8 (i) Quash/set-aside orders dated 8.10.2009 (Annexure A-II), orders dated 29.11.1999 (Annexure A-5) and orders dated 30.6.2001 (Annexure A-7) and to direct the respondents to reinstate him with consequential benefits in the interest of justice.

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2. M.A. No.060/00231 has been filed under Section 5 of Limitation Act for condonation of delay of 4237 days in filing the present appeal.

3. Reply to the M.A. has been filed on behalf of the respondents. Therein it has been stated that the respondents in compliance of the Tribunal's order dated 7.2.2001 in O.A. No.111/HR/2001 passed speaking order dated 28.8.2001 (not filed) and if the applicant was not satisfied with the same he could have approached Tribunal again by filing a fresh OA. Plea of the applicant that he submitted many reminders and even the legal notice was rejected by the respondents as far back on 8.10.2009 was not a cogent explanation for delay and hence the MA deserves to be rejected and O.A. may be dismissed on account of being hopelessly time barred.

4. Arguments advanced by learned counsel regarding the M.A. were heard. Learned counsel for the applicant pressed that the applicant was a poor and semi literate person and he could not pursue his claim properly. The order dated 29.11.1999 removing the applicant from service was issued without affording the applicant an opportunity of hearing. When the matter was brought before the Tribunal, the respondents were directed to decide representation of the applicant but a non speaking order was passed on 28.8.2001 (30.6.2001) in the matter. The applicant had submitted many reminders and when no action was

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taken in the matter, he sent legal notice but the same was also rejected on 8.10.2009. Learned counsel pressed that since applicant was an illiterate person, was facing great financial hardship and was depressed hence he could not file his claim timely hence delay of 4237 days had occurred which was not intentional and same should be condoned.

5. Learned counsel for the respondents states that as per the law of limitation every day's delay in filing claim before appropriate legal forum had to be explained while the present MA had been filing taking a general plea of the applicant being unemployed and depressed and this was not sufficient explanation for the delay of 4237 days in filing O.A. to be condoned.

6. We have given our thoughtful consideration to the matter. Law prescribes certain bars for approaching a judicial forum. The most important of them is the bar of Limitation. Section 21 of the Administrative Tribunals Act, 1985, provides this bar. It is inconceivable that a litigant may come at any time before a Court and claim adjudication of his/her grievance, thereby unsettling the matter which has already been presumed to have come to a rest. In the case of Union of India versus Harnam Singh (1993(2) S.C.C. 162), the Hon'ble Apex Court has held that "the Law of Limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to aid of those who sleep over their rights and allow the period of Limitation to

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expire." As per Section 21 of the Act, an Application under Section 19 of the Act can be filed within one year from the date of cause of action, which can be extended by another six months if any statutory appeal or revision is pending. Beyond that an application for condonation of delay as provided under Section 21(3) of the Act is to be filed with sufficient cause. The delay and laches must be explained to the satisfaction of the Court for seeking condonation as held in the case of **Bhup Singh versus Union of India & Ors.** (1992 A.I.R. S.C. Page 1414).

7. Section 21 of the Act also came up for consideration before the Hon'ble Apex Court in the case of **Union of India & Ors. Versus M.K.Sarkar** (2010(2) S.C.C. Page 58), wherein it has again been reiterated that limitation has to be counted from the date of original cause of action and decision on a belated representation would not revive the cause of action. It has been held as follows:-

"The order of the Tribunal allowing the first application of respondent without examining the merits, and directing appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal to do so, the date of such decision can not be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits; nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

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Moreover, a court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."

8. In view of the fact that the explanation given in the MA for condonation of delay is of general nature and the claim in the OA relates to order of 1999, we are of the view that that there is no merit in the M.A. and the same deserves to be dismissed.

9. Hence the OA is also dismissed as being time barred.

(DR. BRAHM A. AGRAWAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

*Place: Chandigarh.
Dated: 17.7.2014.*

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