

Central Administrative Tribunal
Principal Bench
New Delhi

M.A.No.1129/2014 in R.A.No.80/2014
and
R.A.No.80/2014 in O.A.No.139/2014

Order Reserved on: 10.05.2016
Order pronounced on 11.07.2016

Hon'ble Shri V. Ajay Kumar, Member (J)

Dr. Prem Shanker Mani Tripathi
S/o Late Shri Pashupatinath Tiwary
Aged about 69 years
Retired Director Scientist, CIMFR
R/o F-26, Second Floor
Nizamuddin West,
New Delhi-110013. ... Applicant

(By Advocate: Mr. Nilansh Gaur)

Vs.

1. Union of India
Through its Secretary
Ministry of Science and Technology
Government of India
Technology Bhawan
Mehrauli, New Delhi-110016.
2. Director General
Council of Scientific and Industrial
Research (CSIR)
Anusandhan Bhawan
2, Rafi Marg, New Delhi.

(By Advocate: Sh. Parveen Swaroop)

ORDER

Heard both sides.

2. MA No.1129/2014, seeking condonation of delay in filing the RA, is allowed in the circumstances and in the interest of justice.

3. The applicant retired from service, while working as Director (Scientist), on 31.01.2005. He filed the OA No.139/2014 in the year 2014, seeking a direction to the respondents to invoke Rule 30 of the CCS (Pension) Rules, 1972 and to allow him the benefit of addition of 1.7 years more service to his qualifying service to make it 33 years and thereafter to recalculate his pension and fix it accordingly with arrears w.e.f. 01.02.2005. This Tribunal dismissed the OA by its order dated 16.01.2014, at the admission stage, on the ground of delay by following the decision of the Hon'ble Apex Court in **D.C.S.Negi v. Union of India & Others**, SLP(C) No.7956/2011 CC No.3709/2011, decided on 11.03.2011 by observing as under:

"5. In my considered opinion, this is a highly belated petition. The question is not regarding the admissibility of the benefits as provided in Rule 30 of CCS (Pension) Rules, 1972. Before the Applicant retired on 31.01.2005, he did not take any steps to get the said benefit. As a result, the Respondents also had no opportunity to consider whether the Applicant was entitled for the said benefits. The Applicant admittedly retired on 31.05.2005 and has been drawing his pension for the last nearly nine years. Now, the Applicant wants the Respondents to consider the admissibility of the said benefits. Hence, in my considered view, it is not a case of continuous cause of action. There shall be a difference between the payment of pension which is a continuous cause of action and consideration of the case of the Applicant for the benefit under Rule 30 of the CCS (Pension) Rules, 1972 after a delay of nine years."

4. The learned counsel for the review applicant mainly contends that though he retired from service on 31.01.2005, but pursuing the OA claim till 2014, and hence, the order under review is required to be recalled.

5. Admittedly, the applicant retired on 31.01.2005 and admittedly filed the OA in the year 2014. He also failed to show any satisfactory reasons for the said abnormal delay. The claim of the OA was to allow him the benefit of Rule 30 of the CCS (Pension) Rules, 1972 by adding certain period to his actual service. Hence, as rightly observed by this Tribunal, the same is not a continuous cause of action and hence clearly barred by the period of limitation.

6. In the circumstances and for the aforesaid reasons, we do not find any merit in the RA, and accordingly, the same is dismissed. No costs.

(V. Ajay Kumar)
Member (J)

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