

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 2281/2013
MA 371/2015

Reserved on: 24.03.2017
Pronounced on: 29.03.2017

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Dr. Sunil Kumar Vyas
Demonstrator/ Lecturer
A & U Tibbia College, Karol Bagh
New Delhi-110005 ... Applicant

(Through Shri E. J. Verghese, Advocate)

Versus

1. Chief Secretary
Government of NCT of Delhi
Delhi Secretariat
I.P. Estate, New Delhi
 2. Principal Secretary
Government of NCT of Delhi
Delhi Secretariat
I.P. Estate, New Delhi
 3. Principal/ HOD
A & U Tibbia College, Karol Bagh
Government of NCT of Delhi
Karol Bagh, New Delhi-110005
 4. Director ISM & HM
Government of NCT of Delhi
A & U Tibbia College Campus, Karol Bagh
New Delhi-110005

(Through Shri N.K. Singh for Mrs. Avnish Ahlawat, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

M.A. 371/2015 filed for condonation of delay was heard.

The prayer in the OA is as follows:

- A. Quash and set aside the pay fixation order dated 25.11.2009.
 - B. Direct the respondents to re-designate the applicant as lecturer and fix the pay scale of the applicant in the scale of lecturer i.e. Rs.2200-75-2800-100-4000/ 8000-13500 as done in the case of other demonstrators with effect from 1/4/1992 in the grade of Reader in the pay scale Rs.3700-125-4950-150-5700, of as done in the case of other demonstrators, similarly and identically situated, with all consequential benefits, by convening a Review DPC.
 - C. Direct the respondents to pay interest @ 12% per annum as per the settled law on the dues/ arrears accruable to the applicant from the due date till the date of actual payment.
 - D. Grant the cost of litigation.
2. The impugned order which has been challenged is dated 25.11.2009. The applicant had approached this Tribunal earlier in OA 2732/2011 seeking quashing and setting aside order dated 25.11.2009 and the OA was dismissed by the Tribunal vide order dated 17.04.2012. The applicant thereafter approached the Hon'ble High Court in W.P. (C) 6768/2012 and the Hon'ble High

Court disposed of the matter vide order dated 5.03.2013, which is as follows:

- "1. Learned counsel for the petitioner seeks leave to withdraw the writ petition stating that parity issue which petitioner has learnt now pertaining to Mrs. Rejni Sushma, Dr. Vivek Bhushan, Dr. Yusuf Jamal, Dr. Mohd. Idris Khan and Dr. Rais-ur-Rehman would like to be placed before the Central Administrative Tribunal by the petitioner alleging discrimination; a plea on which petitioner never fought the litigation with the respondents before the Tribunal.
 2. Accordingly, the writ petition is dismissed as not pressed observing that if the writ petitioner was to file a claim petition before the Tribunal on his entitlement of being treated as a Lecturer and, while do so parity is claimed with the afore-noted five persons, **all defences would be available to be pleaded by the respondents.**
 3. No costs."
3. In their reply, the respondents had raised the question of limitation as the OA had been delayed by approximately four years on 10.07.2013, challenging order dated 25.11.2009.
4. In MA-371/2015, first of all, the applicant has not identified the exact days of delay. Secondly, the ground taken is that the applicant has a cause of continuing wrong, giving rise to a recurring cause of action every month on the occasion of salary and hence the judgment of the Hon'ble Apex Court in **M.R. Gupta Vs. Union of India and others**, 1995 SCC (L&S) 1273 covers his case as far as limitation is concerned.

5. We have perused the judgment of the Hon'ble Apex Court in M.R. Gupta (*supra*). The issue in that case was regarding pay fixation and the Hon'ble Apex Court held that to the limited extent of proper pay fixation, the application cannot be treated as time barred since it is based on recurring cause of action. In the present case, the issue is not of pay fixation but of re-designation of the applicant as Lecturer and consequently quashing and setting aside the pay fixation order dated 25.11.2009.

6. From the chronology of dates filed in the OA, it would be clear that the grievance is that the applicant was not considered for promotion. In view of that, we are not inclined to condone the delay and the MA filed for condonation of delay is, therefore, dismissed. OA 2281/2013 is also consequently dismissed.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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