

**Central Administrative Tribunal
Principal Bench**

OA No. 2447/2014

New Delhi this the 9th day of December, 2015

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)

Anil Kumar Soreng, Age 40 years,
S/o Shri Marcus Soreng,
R/o E-396, DDA Flats, Bindapur,
Pocket-3, Dwarka,
New Delhi-110059
Designation-LDC (TA) TC-11221

-Applicant

(By Advocate: Shri Masood Hussain)

VERSUS

The MTNL,
Through its Executive Director,
Kurshid Lal Bhawan,
MTNL, Janpath, New Delhi-110001

-Respondent

(By Advocate: Shri R.N. Singh)

ORDER (Oral)

By Mr. A.K. Bhardwaj, Member (J):

Mr. Masood Hussain, learned counsel for the applicant, espoused that by taking into account the service rendered by the applicant in DOT during the period 1994 to 1998, the respondents ought to have treated him as NE-6 w.e.f. 1998. To buttress his plea raised in the miscellaneous application for condonation of delay, he submitted that he had been making repeated representations to the respondents and was involved in obtaining the information under the Right to Information Act, 2005.

2. We find from the misc. application that the first letter by the applicant was of 04.05.2011. The cause of action to seek the benefit of the service rendered by him in DOT for the period 1994 to 1998 for the purpose of his fitment in NG-6, if any, had to be accrued in the year 1998. As has been ruled by the Honble Supreme Court in **Union of India & others v. A. Durairaj (dead) by LRs**, JT 2011(3) SC 254, the period of limitation need to be reckoned from the date of original cause of action and not from the date of order passed in the representation made belatedly. The relevant excerpt of the judgment read thus:-

¶3. It is well settled that anyone who feels aggrieved by non-promotion or non-selection should approach the Court/Tribunal as early as possible. If a person having a justifiable grievance allows the matter to become stale and approaches the Court/Tribunal belatedly, grant of any relief on the basis of such belated application would lead to serious administrative complications to the employer and difficulties to the other employees as it will upset the settled position regarding seniority and promotions which has been granted to others over the years. Further, where a claim is raised beyond a decade or two from the date of cause of action, the employer will be at a great disadvantage to effectively contest or counter the claim, as the officers who dealt with the matter and/or the relevant records relating to the matter may no longer be available. Therefore, even if no period of limitation is prescribed, any belated challenge would be liable to be dismissed on the ground of delay and laches.

14. This is a typical case where an employee gives a representation in a matter which is stale and old, after two decades and gets a direction of the Tribunal to consider and dispose of the same; and thereafter again approaches the Tribunal alleging that there is delay in

disposal of the representation (or if there is an order rejecting the representation, then file an application to challenge the rejection, treating the date of rejection of the representation as the date of cause of action). This Court had occasion to examine such situations in *Union of India v.M.K.Sarkar* 2010 (2) SCC 58 and 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 for 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. 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. 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 of 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+.

3. In **S.S. Rathore Vs. Union of India**, [1989] Supp. 1 SCR 43, the Hon^{ble} Supreme Court ruled that the repeated representations would not extend the period of limitation. The miscellaneous application for condonation of delay is quite nebulous and is accordingly rejected.

4. Ergo, the OA is also dismissed. No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

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