

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

**MA No.2593/2017**

**in**

**OA No.2446/2017**

**Reserved on:17.01.2018**

**Pronounced on: 09.04.2018**

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Dr. Sunil Kumar Verma

.... Applicant

(By Advocate:Shri Ashok Kriplani)

Versus

All India Institute of Medical Sciences

..... Respondents

(By Advocate:Shri V.S.R.Krishna)

**ORDER**

Briefly stated, the facts of the case are that the applicant had joined the All India Institute of Medical Sciences as Assistant Research Officer in the Department of Medicine on 01.04.1987. After completion of the Project after about 12 years of service, the services of the applicant were terminated w.e.f.31.01.1999 in the Department of Medicine. Thereafter he joined another project in Department of Pediatrics, AIIMS, New Delhi from 01.02.1999 till 30.06.1999 vide order dated 06.02.1999 of the respondent. The applicant states that he was informed orally not to continue after 01.07.1999 so that he is not able to complete 15 years of services to claim absorption.

2. The applicant filed a Writ Petition in the Delhi High Court seeking relief of continuation of services till the time the applicant completes 15

years of said service and becomes entitled to be absorbed in the permanent core cadre of Scientists in the Institute. An interim order was passed by the Hon'ble High Court on 21.07.1999 ordering that "the respondent will permit the petitioner to mark his presence in the attendance register until the next date of hearing." The final judgment of Hon'ble High Court came on 28.05.2001 holding that :-

"The petitioner has a right to be considered by a selection committee as against other appropriate project which is being undertaken by the respondent/Institute. Therefore, in the event of the petitioner filing an application for absorption certain other research projects which are being undertaken by the respondents, the same shall be processed and considered by the selection committee in accordance with the established norms, he shall be so engaged by the respondents/Institute as and when the petitioner completes 15 years total length of service in the institute accordance with the norms, he shall be considered for regularization in accordance with the terms and condition of the scheme promulgated by the respondent/institute. Pending application stands disposed of accordingly. The petitioner is not entitled for the payment of salary he stands terminated from the service prior to the filing of writ petition."

3. Since this was a order of the Single Bench, a LPA No.565/2001 was filed before the Divisional Bench of the Delhi High Court for a limited relief of payment of salary. Vide its order dated 20.08.2002, LPA bench stated that "We allow the appeal. The petitioner shall be entitled for this salary from 1<sup>st</sup> July 1999 till 18<sup>th</sup> September 2001 with continuity in service. The petitioner shall be paid within four weeks. The appeal accordingly disposed of."

4. The Divisional Bench order was challenged by AIIMS in the Hon'ble Supreme Court of India **AIIMS Vs. Sunil Kumar Verma** vide Civil Appeal (C) No.3927/2003. The Hon'ble Supreme Court vide order dated 09.12.2009 held that since the respondent has completed 12 years of service only, the order of the Divisional Bench of Hon'ble High Court cannot be sustained.

5. The applicant states that since the matter was subjudice the respondents had accepted that the matter between the parties was only

non-payment of salary between 01.07.1999 to 18.09.2001. However, the respondents kept giving assignments to the applicant w.e.f. 19.09.2001 till the retirement of the applicant. On 31.08.2014 even later, the respondents kept engaging the applicant till 21.03.2017. In support of this claim, the applicant has attached various appointment letters by the respondents.

6. In the miscellaneous application, the applicant states that subject matter of the order on which he wants redressal pertains to pension, hence, the delay of 105 days in filing the OA by the applicant needs condonation. In support of this contention he has relied on **Union of India & Anr. Vs. Tarsem Singh** dated 13 August, 2008 of Hon'ble Supreme Court of India. It has been held that in case of delay, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied.

7. The respondents have not filed any written reply to the MA for condonation of delay. However on 17.01.2018 Shri V.S.R.Krishna strongly opposed the miscellaneous application on the ground of delay.

8. Keeping in view the facts and circumstances of the case I am of the view that this is a fit case for condonation of delay since it relates to grant or otherwise of retiral benefits to the applicant. MA is accordingly, allowed.

**OA No.2446/2017**

List on 10.05.2018.

**(Praveen Mahajan)**  
**Member (A)**

