

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**M.A. No.100/3485/2016 In
O.A. No. 100/1289/2015**

New Delhi this the 24th day of November, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. P.K. BASU, MEMBER (A)**

Shri Jaipal Singh Sharma ..Respondent in MA/
Applicant in OA

Versus

U.O.I. & Others ..Applicants in MA/
Respondents in OA)

(Argued by: Shri B.K. Berera, Advocate)

ORDER (ORAL)

Hon'ble Mr. Justice M. S. Sullar, Member (J):

M.A No. 3485/2016 :

Tersely, the facts which needs a necessary mention for deciding the instant second Miscellaneous Application (M.A), filed by the respondents, for extension of time, to implement the order of this Tribunal, is that the main **O.A.** bearing **No. 1289 of 2015**, filed by the applicant, Jaipal Singh Sharma, was partly allowed, vide order dated 19.05.2016 by this Tribunal.

The operative part of this order reads as under:-

"11. The contention of the respondents that they have taken a policy decision after considering the decision in M. R. Palanisamy (supra) vide Annexure P1, dated 25.10.2013, that there is no scope for counting of part of GDS service towards regular employment to enable to make up for the short fall in the minimum required length of service, does not stand to the legal scrutiny in view of the categorical finding of the Hon'ble High Court of Madras in A. Kannayan (supra), wherein the observation of the Madras High Court in M.R.Palanisamy that the relief was restricted to him only and the observation of the Hon'ble Apex Court that the law is kept open in the SLP filed in M.R.Palanisamy case, were also considered and still it was directed to grant pension, by giving reasons.

11. It is also to be noted that in A. Kannayan (supra), the Hon'ble High Court of Madras also considered other identical decisions of the same Court and also of the Hon'ble High Court of Karnataka wherein also directions were issued to count the part of the GDS service to make up for the shortfall in the minimum qualifying service.

12. Since the facts of this case are also identical to the facts in A. Kannayan (supra) and other decisions referred therein, the applicant is also entitled for granting of similar reliefs.

13. In the circumstances and for parity of reasons, the OA is allowed and the respondents are directed to count the part of the EDA service of the applicant towards the short-fall in the minimum qualifying service of 10 years of the applicant and accordingly consider his case for pension and other pensionary benefits. However, the applicant is not entitled for any arrears. This exercise shall be completed within two months from the date of receipt of a copy of this order. No costs."

2. Sequelly, the respondents did not comply with the said order. The Ist **M.A.** bearing **No. 2399/2016**, seeking extension of time, filed by them, was allowed and they were permitted to comply with the order within a period of two months vide order dated 05.09.2016, by a Coordinate Bench of this Tribunal.

3. Surprisingly enough, instead of complying the order of this Tribunal, the respondents have preferred the instant second M.A No. 3485/2016 seeking further extension to implement the order mainly on the vague & speculative grounds that the matter is still under consideration, with the higher authority and is likely to take some more time.

4. We have heard the learned counsel for the applicant in MA and have gone through the record with his valuable help.

5. It is not a matter of dispute, that respondents were directed to count the part of the EDA service of the applicant and to reconsider his case for pension, as back as on 19.05.2016. The respondents have not complied with the

order, despite extension of two months, for the reasons best known to them.

6. As illogical, as it may look, but strictly speaking, the tendency & frequency of avoiding quick implementation of the order of this Tribunal, and filing applications for extension of time on frivolous/speculative grounds, by such respondents, have been tremendously increasing day by day, which needs to be curbed, in the right earnest.

7. As indicated herein above, the respondents were required to simply add the EDA service of the applicant and to reconsider his case for pension and nothing else, but they have not complied with the indicated direction of this Tribunal. The vague explanation, that the matter is still under consideration, before the higher authority, is not a ground, much less cogent to grant 2nd extension for implementation of the order of this Tribunal. We are of the firm view, that the respondents have intentionally filed the instant M.A for extension of time, only just to delay the implementation of the order. The M.A deserves to be dismissed with costs.

8. In the light of the aforesaid reasons, as there is no merit, the instant 2nd M.A. for extension of time is hereby dismissed

with cost of Rs.5000/- on the respondents to be paid to the applicant.

(P.K. BASU)
MEMBER(A)

(JUSTICE M.S. SULLAR)
MEMBER(J)

24.11.2016

Rakesh