

Central Administrative Tribunal
Principal Bench, New Delhi

OA No.3103/2014
MA No. 2662/2014

New Delhi this the 18th day of January, 2018

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. Janak Pal, Age 58 years,
S/o Shri Hargulal,
R/o House No. 16, Block X,
HUDCO Place Extension,
New Delhi-49

- Applicant

(By Advocate: Mr. Raj Kumar)

VERSUS

1. Union of India
Through its Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi
2. Director General of Health Services,
Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi
3. Union Public Service Commission,
Through its Chairman,
Dholpur House, New Delhi-110069 - Respondents

(By Advocates: Mr. NK Aggarwal for respondent nos. 1 &2
Mr. Ravinder Agarwal for respondent no.3)

O R D E R (Oral)

Justice Permod Kohli:

Through the medium of the MA No. 2662/2014, the applicant is seeking condonation of delay of 70 days in filing the OA.

2. In the reply filed by the respondent nos. 1 and 2 to this condonation application, it is stated that the applicant has been negligent and careless in approaching this Tribunal. The applicant had been making repeated frivolous representations and dismissal of the OA is sought on account of limitation. In this regard, the respondents have relied upon para 20 of the judgment of the Apex Court in the case of **S.S. Rathore v. State of Madhya Pradesh**, (1989)11 ATC 913 which reads as under:-

“20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.”

3. From the reliefs claimed in the OA, it is evident that the applicant has assailed the ACRs for the period 2005-06 and 2006-07 as also the memorandum dated 08.07.2010 issued by the Ministry of Health & Family Welfare whereby the representation was sought from those candidates whose non-communicated below benchmark ACRs were

already sent to the UPSC for their consideration for promotion to the SAG level. Another memorandum dated 30.07.2010 is also under challenge. Some other reliefs are also sought. However, the main and principal relief is in respect of setting aside of the ACRs. All other reliefs are consequential, in the event the applicant succeeds in the first relief in respect of setting aside of the ACRs.

4. In the condonation application, it is stated in para 3 that the applicant submitted two representations to the respondents in respect to below benchmark un-communicated ACRs. The first representation was 13.08.2018 and the second on 07.09.2010. The second representation was consequent upon the order passed by the Tribunal in OA No.2395/2010. The representation of the applicant was rejected vide order dated 03.12.2012. This fact is disputed by Mr. Aggarwal. Pointing to the order dated 07.07.2011, it is argued that the request of the applicant for upgradation of below benchmark grading of the ACRs was rejected vide the aforesaid order. In the application, a reference is made to some subsequent representations which the applicant continued to make from time to time.

5. It is a settled law that repeated representations do not grant any period of limitation under Section 21 of the Administrative Tribunals Act, 1985. The limitation shall commence from the date of passing of the order or where any appeal or representation has been filed within a period of one year from the date of decision on the representation and if no decision is taken within a period of six months, the limitation would commence after expiry of six months.

6. Even assuming that the rejection of the representation was communicated to the applicant on 03.12.2012, the present OA has been filed on 27.08.2014 and there is no explanation whatsoever for the delay from rejection of the claim, i.e., 03.12.2012 till the filing of the present OA. Under the given circumstances, his condonation application is dismissed.

7. As a consequent of dismissal of the condonation application, the OA also stands dismissed.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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