

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-3208/2015
MA-2818/2015
MA-2936/2015
MA-4409/2017

New Delhi this the 01st day of December, 2017

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Somdutt-Technical Officer, IASRI,
S/o Sh. Biru Mal aged 62 years,
R/o RZ-310, Street No. 18 A,
Shad Nagar, New Delhi. ... Applicant
(through Sh. B.K. Pal)

1. Union of India,
Through its Secretary,
Ministry of Agriculture,
Krishi Bhawan, New Delhi-1.
2. Indian Agricultural Statistics,
Research Institute (IASRI),
Through its Director
Indian Council of Agricultural Research,
Pusa Road, New Delhi-12. ... Respondents

(through Sh. Varun Kr. and Sh. Gagan Mathur for R-2)

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli, Chairman

This is a common order in MA No. 2818/2015 filed for condonation of delay and OA No. 3208/2015.

2. This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- i. Grant of due promotions and grades i.e. to T-4 w.e.f. 01.07.1985; T-5 w.e.f. 01.01.1991; 3 advance increments w.e.f. 01.07.96 and further grant of promotions and grades to T-6 w.e.f. 01.07.2001 and T-7-8 w.e.f. 1.1.2006 alongwith arrears;
- ii. Grant of pension at increased rate accordingly after due fixation from the said respective dates of the petitioner's salary;
- iii. Any other order of orders may also be made this learned Tribunal deem fit and proper;

3. Admittedly, the OA is barred by time, same having been filed before this Tribunal on 17.08.2015 much after the limitation. The first impugned order is of 01.07.1985 and second of 01.01.1991. This petition is thus filed after about 30 years of passing of the first impugned order and almost 26 years after passing of second impugned order. The applicant has filed a separate application for condonation of delay as referred to above. Two grounds have been urged in the application. One, that his wife was under regular treatment who is suffering from depression time and again during day and night as such the applicant was unable to leave her alone according to the instructions of the Doctors and as such could not look after the case. The second ground is that the applicant had approached National Commission for Scheduled Case which had

given its decision on 01.04.2013 which came to the knowledge of the applicant on 20.04.2015. Apart from the above, the applicant has also referred to a petition filed before the Hon'ble High Court. There has been an inordinate delay spreading over 36 years. The application for condonation of delay too is sketchy to inspire confidence. As a matter of fact, there is no specific averment which may in any manner even indicate the bona fides of the applicant for condoning delay in filing the application. The plea of wife being unwell is without any details, the period or supported by medical evidence to enable this Tribunal to find the bona fide of the applicant. The application is hopelessly barred by time.

4. Apart from the question of limitation, learned counsel for the respondents has brought to our notice a judgment dated 28.02.2006 passed in OA No. 1261/2005 which is at Annexure A-1 with the counter affidavit filed by the respondents. In the said OA, the applicant claimed following reliefs:

- "(i) The petitioner may be granted the grade of categories T-4 and T-5 w.e.f. 1.7.1985 and 1.1.1991 respectively having the grade of Rs. 1640-2900 revised to Rs.5500-9000 and Rs.2000-3500 revised to Rs. 6500-10,500 respectively and further Grade of T-6 accordingly.
- (ii)The petitioner may also be provided with due compensation of Rs.2.50 Lakhs on account of economic loss as caused and also to be caused in future besides harassment, humiliation and mental agony to which the petitioner has been subjected to by the respondent Nos.1 & 2 due to aforesaid wrong and illegal acts.
- (iii)Any other order or orders which this Hon'ble Court deems fit and proper in the circumstances of the case may also be passed in the interest of justice."

The relief claimed in the aforesaid OA and the relief claimed in the present OA is identical, rather, the same relief has been claimed.

The same orders are impugned in both the applications. The aforesaid OA was dismissed by this Tribunal on the ground of limitation. The relevant observations of the Tribunal are contained in Para 12 and 13. The same are reproduced hereunder:-

“12. The Hon’ble Supreme Court in V.M. Salgaocar and Bros. Vs. Board of Trustees of Port of Mormugao and Another (2005) 4 SCC 613 has held in Para 36 thereof:-

“the statute of limitation is founded on public policy that an unlimited and perpetual threat of litigation leads to disorder and confusion and creates insecurity and uncertainty. Therefore the legislature has sought to balance the public interest in providing limitation on the one hand and at the same time not to unreasonable restrict the right of a party to initiate proceedings on the other.”

As such if the applicant in Court is not filed within the limitation period and in fact only after an extended period stretching well over a decade, the court cannot be expected to encourage such inordinate delay.

13. Further, in the case of Sadasivaswamy vs. State of Tamil Nadu, AIR 1974 SC 2271 the Hon’ble Supreme Court has held as under:-

2.... A person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the court to put forward stale claims and try to unsettle settled matters. The petitioner’s petitions should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant’s petition as well as the appeal.”

The applicant could have raised the grievance at the appropriate time as such we find the application is barred by limitation. It is settled law that repeated unsuccessful representations cannot help to enlarge the period of limitation.”

5. The said application was dismissed on grounds of limitation. The applicant challenged the same before the Hon'ble High Court of Delhi in WP(C) 5123/2007. During the pendency of the said WP, the applicant made an application seeking to withdraw the WP. However, the applicant was absent when the matter was listed before the Hon'ble High Court and the WP was dismissed for non prosecution. The order passed by the Hon'ble High Court is reproduced hereunder:-

"This is an application seeking permission to withdraw the writ petition. The matter has been called out twice but there is no appearance on behalf of the Petitioner.
The Writ Petition is dismissed for non-prosecution.
The application is also disposed of."

6. Learned counsel appearing for the applicant has time and again contended that the limitation would commence from the date of order passed by the National Commission for Scheduled Caste. His further contention is that he had also served a legal notice dated 28.04.2015 which has not been responded to and thus the applicant would have limitation notwithstanding that the impugned orders were passed more than 26 and 30 years ago. We are not convinced with the submissions made by the applicant. Inordinate delay of 26-30 years has not been explained, what to say of sufficiently explained. In any case, the question of limitation has already been considered and decided by this Tribunal in OA No. 1261/2005 vide judgment dated 28.02.2006 and the Writ Petition filed there against stands dismissed though not on merits but the order

passed by this Tribunal has attained finality. Even on limitation, the order operates as *res judicata*. Once the plea for condonation of limitation was not accepted by this Tribunal as far as back in the year 2006, we are afraid that the question of limitation can be allowed to be re-agitated in the present OA.

7. For the reasons mentioned hereinabove, this Original Application is dismissed both on the question of limitation and hit by the doctrine of *res-judicata*.

(UDAY KUMAR VARMA)
MEMBER (A)

(JUSTICE PERMOD KOHLI)
CHAIRMAN

/ns/