

**Central Administrative Tribunal
Principal Bench**

OA No.3933/2017

New Delhi, this the 10th day of November, 2017

**Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

R.C.Choudhary
S/o Late Narayan Choudhary
R/o F-24/263, Sector-3,
Rohini, Delhi-85
(Applicant retired from grade
T-5 with IARI, Pusa, New Delhi)

(By Advocate: Chittaranjan Hati)

... Applicant

Versus

1. Indian Council of Agricultural Research,
Through its Secretary/D.G.
Krishi Bhawan,
New Delhi-1.
2. The Director,
Indian Agricultural Research Institute,
Pusa,
New Delhi-12.

... Respondents

ORDER (ORAL)

Mr. V. Ajay Kumar, Member (J) :-

Heard the learned counsel for applicant.

2. The applicant, who was retired as Technical Officer (T-5 Grade) on 30.09.2009, filed the instant OA seeking the following reliefs :-

“(i) This Hon’ble Tribunal may kindly be pleased to place the applicant in the Pay Scale Rs.425-700/- in the Grade T-II-3 w.e.f. 18.03.1978 and subsequent promotions to the Grade T-4 on 01.01.1984, T-5 on 01.01.1989, T-6 on 01.01.1999, T-7/8 on 01.01.2004; OR in the alternative at least give T-6 on 01.01.2007 and also with all consequential benefits.

iii) Any other order may also kindly be passed in the facts and circumstances of the case in favour of the applicant.”

3. A perusal of the above relief clearly indicates that the applicant is seeking certain promotional benefits w.e.f. 01.01.1984, i.e., after a lapse of about 30 years.

4. In the case of **Union of India & others v. A. Durairaj (dead) by LRs**, JT 2011 (3) SC 254, the Hon’ble Supreme Court ruled as under:-

“13. 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".

5. In the case of **D.C.S. Negi v. Union of India & others** (Civil Appeal No.7956 of 2011) decided on 7.3.2011, the Apex Court viewed that the Tribunal should give due regard to Section 21 of Administrative Tribunals Act, 1985. Relevant portion of said judgment reads thus:-

"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the Applications filed under Section 19 of the Act in complete disregard of the mandate of Section 21. Since Section 21 (1) IS COUCHED IN NEGATIVE FORM, IT IS THE DUTY OF THE Tribunal to first

consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under section 21 (3)."

6. Such a view was also taken in the case of **C.Jacob v. Director of Geology & Mining and another**, JT 2008 (11) SC 280.

7. In the circumstances and in view of the aforesaid decisions of the Hon'ble Apex Court, the claim is stale and dead one and cannot be taken after a lapse of this long period. Accordingly, the OA is dismissed as time barred. No costs.

(Nita Chowdhury)
Member (A)

'rk'

(V. Ajay Kumar)
Member (J)