

**Central Administrative Tribunal
Principal Bench**

OA No.3936/2014

New Delhi, this the 29th day of May, 2017

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

1. Dr. Ashim Pal, 54 years, Senior Vet Officer
S/o A M Pal, R/o 205 Dum Dum Park
P.S.-Lake Town, Kolkata –West Bengal
Pin Code-700055
Posted at: Sector Head Quarter
Purnea, Bihar

2. Dr. S.K. Mandal, 50 years, Senior Vet. Officer
S/o Late Rash Behari Mandal
R/o Village-Baruna, PO-Goramahal
P.S.-Moyna, Distt-Purba Medinapur
Pin Code-721642
Posted at: Sector Head Quarter
Gangtok, Sikkim.Applicant

(By Advocate: Shri G.D. Chotmurada)

Versus

1. Union of India through the Secretary
Ministry of Home Affairs
North Block, New Delhi-110001.

2. The Secretary, Department of Expenditure
Ministry of Finance, North Block
New Delhi-110001.

3. The Secretary
Department of Personnel & Training
North Block, New Delhi-110001.

4. The Director General
Sashastra Seema Bal, Force Headquarters
East Block-V, R.K. Puram
New Delhi-110066.

5. Dr. S.K. Tiwari
Deputy Inspector General(Veterinary)
Force HQ, SSB, East Block-V
R.K. Puram, New Delhi-110066.
6. Dr. M.P. Wase, Commandant(Veterinary)
Frontier HQ, SSB, Patna.
7. Dr. R.S. Gahalawat
Commandant(Veterinary)
Frontier HQ, SSB, Guwahati.
8. Dr. A.V. Gawai, Commandant(Veterinary)
Force HQ, SSB, East Block-V
R.K. Puram, New Delhi-110066.
9. Dr. N.K. Tinna, 2nd in-Command(Veterinary)
Dog Training Center
Dara Alwar, P.O. Rani(Rajasthan) ...Respondents

(By Advocate: Shri Rajinder Nischal)

ORDER (ORAL)

Justice Permod Kohli :-

When this OA was taken up for hearing, Shri Rajinder Nischal, learned counsel appearing for respondents raised the preliminary objection that this OA is barred by limitation and even no application for condonation of delay has been filed.

2. We have considered the plea of limitation raised by the respondents. The applicants are seeking review of DPC held in 2009. In para 9 of the counter affidavit, it is stated that the date of holding of DPC has been mentioned as 12.02.2009 for promotion of Senior Veterinary Officer to the

post of Chief Veterinary Officer meaning thereby that the cause of action accrued to the applicants when the DPC was held on 12.02.2009 and the applicants were allegedly denied promotion.

3. This OA has been filed on 28.10.2014 . In para 3 of the OA, which deals with the averments regarding limitation under Section 21 of the Administrative Tribunals Act, 1985, the applicants have made the following statement:-

"3. Limitation

The applicants submit that the present Original Application is within the period of limitation prescribed in Section 21 of the Central Administrative Tribunal Act 1985. The last representation sent by the Applicant No.1 & 2 was on 23.05.2014 and 27.05.2014 respectively, which has not been replied as on date."

From the above, we find that though the applicants were denied consideration by the DPC on 12.02.2009 and the impugned order of promotion of Senior Veterinary Officer to the post of Chief Veterinary Officer was passed on 04.06.2009, the first representation made by applicant No.1 on 20.02.2013 and by applicant No.2 on 27.05.2014. However, in para 4.15 it is that the first representation was made on 20.02.2013. Even if the first representation is considered, the same was made on 20.02.2013 in respect to

the cause of action that accrued on 04.06.2009. The OA is hopelessly barred by time. It is settled law that continuous representations do not extend the period of limitation. Therefore, the two representations mentioned by the applicants in para 3 will not in any way enhance the limitation for filing the present OA. The limitation period would commence from 04.06.2009 and will be one year from the date of passing of the order and in the event any representation is made, after expiry of six months from the date of representation one year period of limitation will commence. In any case, the present OA has been filed after a period of almost five years. Thus, there is no explanation for the delay. In **D.C.S. Negi v. UOI, Civil Appeal No.7956/2011** in SLP(C) CC No.3709/11 decided on 07.03.2011, the Hon'ble Supreme Court has categorically held that it is the obligation of the Tribunal to examine the question of limitation on stale claims.

4. Apart from that, we are informed that both the applicants have been promoted to the post of Chief Veterinary Officers on 09.12.2016. Shri Rajinder Nischal, learned counsel appearing for the respondents has placed a copy of order dated 09.12.2016 promoting the applicants to the post of Chief Veterinary Officers. The said order is taken on record.

5. In this view of the matter, without going into the merits of the controversy, this OA is dismissed being barred by limitation.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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