

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-1928/2018
MA-2471/2018**

Reserved on : 14.09.2018.

Pronounced on : 18.09.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Alok Agarwal,
S/o late Sh. Dr. Radhey Lal,
R/o F-903, Sharanam Great Value Projects,
Sector-107, Noida, UP.

.... Applicant

(through Sh. K.P. Singh, Advocate)

Versus

1. Union of India,
Ministry of Steel,
Udyog Bhawan,
New Delhi-110011,
Through its Secretary.
2. The Chairman,
Steel Authority of India Limited,
Ispat Bhawan, Lodhi Road,
New Delhi-110003.
3. The Director Personnel,
Steel Authority of India Limited,
Ispat Bhawan, Lodhi Road,
New Delhi-110003.

.... Respondents

(through Sh. G.S. Virk and Sh. Digvijay Rao with Ms. Kushbu,
Advocates)

ORDER

MA-2471/2018 in OA-1928/2018 has been filed by the applicant
for condonation of delay in filing OA-1928/2018. In the O.A., the

applicant has impugned the act of the respondents of recovering HRA from him w.e.f. September, 2013 vide their order dated 18.12.2013 and not granting the HRA w.e.f. 01.09.2013 to 30.09.2016. The applicant states that even though he was eligible, the grant of HRA has been denied to him. He made several representations dated 20.03.2014, 09.06.2015, 15.07.2015, 29.09.2016, 14.03.2017, 02.05.2017 and 24.08.2017 to the concerned authorities requesting for grant of HRA, but none of the representations was responded to. He has placed reliance on the judgment of Hon'ble Supreme Court in the case of **M.R. Gupta Vs. Union of India**, 1995 SCC(5) 628 wherein it has been held that:-

"5. Having heard both sides, we are satisfied that the Tribunal has missed the real point and overlooked the crux of the matter. The appellant's grievance that his pay fixation was not in accordance with the rules, was the assertion of a continuing wrong against him which gave rise to a recurring cause of action each time he was paid a salary which was not computed in accordance with the rules. So long as the appellant is in service, a fresh cause of action arises every month when he is paid his monthly salary on the basis of a wrong computation made contrary to rules. It is no doubt true that if the appellant's claim is found correct on merits, he would be entitled to be paid according to the properly fixed pay scale in the future and the question of limitation would arise for recovery of the arrears for the past period. In other words, the appellant's claim, if any, for recovery of arrears calculated on the basis of difference in the pay which has become time barred would not be recoverable, but he would be entitled to proper fixation of his pay in accordance with rules and to cessation of a continuing wrong if on merits his claim is justified. Similarly, any other consequential relief claimed by him, such as, promotion etc. would also be subject to the defence of laches etc. to disentitle him to those reliefs. The pay fixation can be made only on the basis of the situation existing on 1-8-1978 without taking into account any other consequential relief which may be barred by his laches and the bar of limitation. It is to this limited extent of proper pay fixation the application cannot be treated as time barred since it is based on a recurring cause of action."

2. The applicant further states that he was suffering from

Chikingunia w.e.f. September, 2016 and took almost nine months to recover. It is also mentioned that the applicant was transferred to Durgapur on 30.09.2016 and was hopeful for sympathetic consideration by the respondents as done in the case of some of his colleagues. It is also mentioned in the MA that the applicant is a patient of HEATUS Hernia since February, 2018. Due to his ill health, the applicant took voluntary retirement from service on 30.09.2017. The applicant has sought to explain condonation of delay of 1057 days in filing the Original Application-1928/2018, due to the aforementioned reasons.

3. In reply to the MA, the respondents state that the judgment of the Hon'ble Supreme Court relied upon by the applicant in the case of **M.R. Gupta** (supra) is distinguishable on facts, since it was a matter of pay fixation, which was a recurring cause of action. They submit that the applicant has not given any cogent reasons for the delay in filing his OA. The cause of action of the applicant arose as early as 2013, but the O.A. was filed in 2018. The averment of the applicant that he suffered from Chikingunia till 2016 is not supported by any medical certificates. Even if this plea is accepted, the applicant has still not been able to explain the delay w.e.f. September, 2016 to 07.05.2018. The respondents contend that senior officers like the applicant are expected to know the rules and any delay in seeking redressal of grievance, beyond the prescribed statutory limit is not

acceptable.

4. I have gone through the facts of the case and heard the learned counsels for both sides.

4.1 There are numerous judgments of various judicial fora laying down that the litigants are expected to pursue their remedies within the stipulated frame. Any delay in this regard is detrimental & deprives them of the right to such remedy.

4.2 To cite a few examples, Hon'ble Supreme Court in the case of **State of Punjab Vs. Gurdev Singh**, (1991) 4 SCC 1 has held that the aggrieved party must approach the Court within the stipulated period after expiry of which the Court cannot grant the relief prayed for. Same view has been reiterated by the Hon'ble Supreme Court in the case of **UOI Vs. Ratan Chandra Samanta**, JT 1993 (3) SC 418. In the case of **Harish Uppal Vs. UOI**, JT 1994(3) 126 the Apex Court categorically laid down the law that delay defeats equity and the Court should help those who are vigilant and not those who are indolent. The parties are expected to pursue their rights and remedies promptly and if they just slumber over their rights, the Court should decline to interfere.

4.3 The applicant in the MA has tried to make out a case that he was under the impression that his various representations to the

respondents will yield results and the lack of response in this regard finally led him to file the current O.A. Here, I place reliance on the judgment of Hon'ble Supreme Court in the case of **Ajay Walia Vs. State of Haryana & Ors.**, JT 1997(6) SC 592 wherein it has been held that:-

“Representation repeatedly given to various authorities do not furnish fresh course of action to file Writ Petition. The High Court is wholly unjustified to have entertained and allowed the Writ Petition.”

5. The applicant is aggrieved by the order dated 18.12.2013 of the respondents for not granting HRA to him w.e.f. 01.09.2013 to 30.09.2016. The alleged condition of Chikingunia and HEATUS Hernia which delayed his filing of application are post September, 2016 and do not come to his aid. In view of the aforementioned discussions, I hold that no sufficient and convincing ground has been shown by the applicant for delay in filing the O.A. In view of the above cited reasons, MA-2471/2018 is dismissed. Accordingly, the O.A. also stands dismissed. No costs.

(Praveen Mahajan)
Member (A)

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