

**Central Administrative Tribunal
Principal Bench**

OA No.4502/2014

New Delhi, this the 25th day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. R. Chitra, Age 48 years
W/o Sh. R. Varghise
R/o L-5, Andrew Ganj Extension
New Delhi-110049. Applicant

(By Advocate: Shri Sachin Chauhan)

Vs.

1. Union of India through its Secretary
Ministry of Water resources
Shram Shakti Bhawan, New Delhi-110001.
2. The Director, Central Soil & Materials Research
Station, Olof Palme Marg, Hauz Khas
New Delhi-110016.
3. The Secretary, DOPT
Ministry of Personnel, Pension &
Public Services, North Block
New Delhi.
4. The Chairman, U.P.S.C.
Dholpur House, Shahjhan Road
New Delhi.
5. The Under Secretary, Govt. of India
Ministry of Water Resources
Central Soil & Materials Research Station
Olof Palme Marg, Hauz Khas
New Delhi-16. Respondents

(By Advocates: Shri Gyanendra Singh and Shri
Ravinder Agarwal)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman:-**

The applicant was appointed as Research Officer(Engineering) in the Central Soil and Materials Research Station, Ministry of Water Resources, Government of India on 31.01.1991. She was promoted as Senior Research Officer on 18.03.1997. Thereafter, she was promoted as Chief Research Officer under the Flexible Complementing Scheme(FCS) through order dated 12.10.2006. That was followed by her promotion as Scientist 'E' on 10.04.2012. The present OA is filed challenging the office order dated 12.10.2006 (Annexure A-1), stating that the promotion ought to have been with effect from the year 2002 on which date she completed five years of service as Senior Research Officer. Reliance is placed on the Order of this Tribunal dated 09.07.2009 in OA No.1810/2007.

2. It is pleaded that the FCS provides for promotion of an incumbent to the next higher post on completion of five years of service, and that though the applicant completed five years of service by 2002, the promotion

was granted to her to the post of Chief Research Officer only in the year 2006.

3. The respondents filed a detailed counter affidavit. Strong objection is raised as to the limitation. It is stated that the cause of action, if at all, has arisen in the year 2006 and having not chosen to accept the promotion at that time, she has filed this OA only in the year 2014. It is also pleaded that similar cases, i.e., OA No.1785/2012 and batch filed before this Tribunal under similar circumstances, were dismissed through Order dated 09.07.2015.

4. Heard Shri Sachin Chauhan, learned counsel for the applicant and Shri Gyanendra Singh and Shri Ravinder Agarwal, learned counsel for the respondents.

5. There is a strong objection as to the limitation within which the OA is filed. The order challenged in this OA is dated 11.10.2006. The OA was filed in the year 2014. An attempt is made to explain the delay by stating that the representation seeking the relief in terms of the Order in OA No.1810/2007 was rejected only on 21.02.2010 (Annexure A-3). Reliance is also placed upon the judgment dated 17.10.2014 of the

Hon'ble Supreme Court in ***State of UP & Ors. v. Arvind Kumar Srivastava & Ors.***

6. Section 21 of the Administrative Tribunals Act prescribes limitation, within which the OA is to be filed. It is no doubt true that provision is made for condonation of delay in deserving cases. However, the delay must be explained to the satisfaction of the Tribunal. Cause of action in the instant case has arisen on 11.10.2006. As a matter of fact, if the grievance of the applicant is as to the alleged denial of her right to be promoted on completion of five years, she was expected to raise the issue in the year 2002 itself. No such effort was made till the promotion was ordered in 2006.

7. Some of the employees who were similarly situated as the applicant, filed OA No.1810/2007. After verifying the particulars of their service and other provisions, relief was extended to them. That was in the year 2009. The applicant took one year to make a representation seeking relief in terms of the Order of this Tribunal. Even that was rejected on 12.02.2010 (Annexure A-3). She was expected to approach the

Tribunal within the period of limitation. It was only in the year 2014, i.e., four years after the Annexure A-3 order was passed, that this OA was filed.

8. In **Arvind Kumar's** case (supra) the Hon'ble Supreme court dealt with the question as to how the delay in service matters needs to be dealt with. After discussing the various aspects, the Hon'ble Supreme Court summed up the law as under:-

"Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated June 22, 1987. The respondents before us did not challenge these cancellation orders till the year 1996, i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined the service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of cancellation orders. Therefore, not only there was unexplained delay and laches in filing the claim petition after period of 9 years, it would be totally unjust to direct the applicants to give them the appointment as of today, i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above."

9. The case of the applicant is squarely covered by the ratio, that can be culled out from paragraph 2. An effort is made to plead that the order in OA No.1810/2007 is one in rem. However, we find that the adjudication therein was on the facts of that case.

10. We are not inclined to grant any relief on merits. This OA is also hopelessly barred by limitation. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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