

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

R.A. No.150/2017 in O.A.No.561/2014

Order reserved on 23rd May, 2018

Order pronounced on 30th May, 2018

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

Kuldeep Kaul
s/o Dina Nath Kaul
r/o 332-D, Pocket-2, Mayur Vihar
Phase-I, Delhi – 110 091

..Applicant

(Mr. Yogesh Sharma, Advocate)

Versus

1. Council of Scientific & Industrial Research
Through its Director General
Anusandhan Bhawan, 2 Rafi Marg
New Delhi – 110 001
2. The Director
National Institute of Science Communication &
Information Resources
Dr. K S Krishnan Marg (Pusa Campus)
New Delhi – 110 012

..Respondents

(Mr. Praveen Swaroop, Advocate)

O R D E R

Mr. K N Shrivastava, M (A):

Through the medium of this R.A. filed under Section 22 (3) (f) of the Administrative Tribunals Act, 1985, the applicant has sought review of the Tribunal's order dated 14.05.2017 in O.A. No.561/2014. Brief background of this case is recapitulated as under:

2. The applicant joined the National Institute of Science Communication & Information Resources (NISCAIR), which is a Unit of Council of Scientific & Industrial Research (CSIR), on 09.01.1984, as a Technical Assistant. He secured his regular promotions to the next higher post, viz. Senior Technical Assistant and Technical Officer 'A'. He was considered for the next promotion to the grade of Technical Officer 'B', but the Assessment Committee did not find him suitable. The recommendations of the Assessment Committee, *qua* the applicant, were initially kept in sealed cover, as he was then under suspension, but after his suspension was revoked on 09.02.2007, the sealed cover was opened and vide letter dated 20.03.2007, the applicant was informed that the Assessment Committee has not recommended his case for promotion to the post of Technical Officer 'B', as he had not crossed the threshold.

3. The applicant made a representation dated 06.06.2007 followed by another representation dated 10.12.2007, which were rejected vide letter dated 18/19.12.2008. The rejection of the representations of the applicant was also reiterated by the Director General in the O.M. dated 23.02.2009. The applicant made yet another representation on 06.03.2013, which was recommended by the Director, NISCAIR to the Director General, CSIR, who, vide his O.M. dated 03.06.2013, rejected the said representation.

4. The applicant challenged the O.M. dated 03.06.2013 in the O.A. The question of limitation was naturally raised. The applicant tried to explain the limitation but the Tribunal was not convinced with the explanation and finally, vide the order under review, dismissed the O.A. on the ground of limitation. The operative part of the order reads as under:-

“8. It is settled law that continued representations do not extend the period of limitation. Under Section 21 of the Administrative Tribunals Act, 1985 where a representation/appeal is filed and rejected, the aggrieved person is required to approach the Tribunal within one year from the date of rejection of the representation/appeal. Admittedly, the claim of the applicant was rejected on 18/19.12.2008. Thus, the limitation of one year expired on 17/18.12.2009. Any further representations made by the applicant are totally irrelevant. The applicant has, however, based his claim on the recommendations of the Director dated 25.03.2013 on his fifth representation, which was again rejected vide the impugned order dated 03.06.2013. Even when the plea of limitation was raised in the counter affidavit, the applicant took more than two years to file application for condonation of delay. The callous approach of the applicant does not in any manner provide basis for condonation of delay. It is settled law that limitation does not take away the right but only the remedy. The Hon’ble Supreme Court in C. Jacob’s case (supra) and State of Uttaranchal v Shiv Charan Singh Bhandari (supra) clearly held that the Tribunal should refrain from ordering consideration of stale claims, and even if such direction is issued, authorities are still not required to allow stale claims.”

5. The main ground for seeking review of the Tribunal’s order pleaded by the applicant is that his representation dated 08.05.2009 addressed to the Director General, CSIR and sent through proper channel, was in the shape of an appeal. It is contended that such an appeal is permissible under Rule 23 (iv) (a) of CCS (CCA) Rules, 1965, which reads as under:-

“23. (v) (a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement.”

6. It is further contended that the rejection of the applicant’s representation dated 08.05.2009 by the Director General, CSIR was communicated to him by the Controller of Administration, NISCAIR by order dated 18.07.2012 and hence the limitation should be reckoned from that day. The applicant has also cited the following judgments in support of his prayer for condonation of delay:

(i) **Sualal Yadav v. State of Rajasthan & others**, 1977 (2) SRK 698;
and

(ii) **Mahipal Singh v. State of Rajasthan & others**, D.B. Civil writ
Petition No.13162/2011 decided on 10.07.2012.

7. Arguments of learned counsel for the parties were heard on 23.05.2018. We have considered the rival arguments of both the parties and have perused the pleadings.

8. The sole ground pleaded by the applicant, in support of his prayer for reviewing the Tribunal's order dated 14.05.2017, is that his representation dated 08.05.2009 to the Director General, CSIR was in the nature of an appeal and since the decision of the Director General, CSIR rejecting the *ibid* representation was communicated to him by the Controller of Administration, NISCAIR by order dated 18.07.2012, the limitation should be counted from that date. This argument is absolutely specious. The applicant nowhere cited any rule under which he had the liberty to make an appeal to the Director General, CSIR against the communication of his non-selection to the post of Technical Officer 'B'. The documents available on the record would indicate that all the representations made by him, including the one dated 08.05.2009, are simple representations. No statutory rules have been quoted, under which purportedly the representation dated 08.05.2009 was made by the applicant to the Director General, CSIR. Hence, we repel the arguments of learned counsel for applicant that the period of limitation should be counted from 18.07.2012, i.e., the date of rejection of the representation dated 08.05.2009.

9. The judgments relied upon by the review applicant were also placed on record by him when the O.A. was adjudicated by the Tribunal. A very crystal clear finding has been given by the Tribunal that repeated representations do not extend the period of limitation. The Tribunal has also relied on certain judgments of Hon'ble Supreme Court, which are mentioned in the order dated 14.05.2017.

10. The applicant had initially not filed any Condonation Application and when it was pointed out during the adjudication of the O.A., that he filed the Condonation Application and that too after a long delay of two years.

11. In view of the above, we do not find any merit in this R.A. It is accordingly dismissed. No costs.

(K.N. Shrivastava)
Member (A)

(Justice Dinesh Gupta)
Chairman

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