

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

MA 1404/2018
OA No. 1108/2018

Reserved on 07.09.2018
Pronounced on 13.09.2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Niti Tomar,
Age-29 years,
S/o Sh. Ram Kumar,
R/o-14/360 Gandhi Colony,
Binoli Road Baraut,
Baraut, Baghpat,
Uttar Pradesh-250611

... Applicant

(By Advocate Shri Sachin Chauhan with Sh. Rajesh Chauhan)

VERSUS

1. Union of India
Through its Secretary,
Govt. of India,
Ministry of Personnel, Public Grievances &
Pension, Department of Personnel & Training,
North Block, New Delhi.
2. Staff Selection Commission,
Through the Chairman,
S.S.C., Block No.12, CGO Complex,
Lodhi Road, New Delhi-3
2. The Regional Director (NR),
Govt. of India,
Department of Personnel & Training,
Staff Selection Commission,
Block No.12,
CGO Complex,
Lodhi Road, New Delhi-3

... Respondents

(By Advocate: Mr. Rajesh Katyal)

ORDER

Hon'ble Mr. S.N.Terdal, Member (J):

MA 1404/2018

This MA has been filed by the applicant seeking condonation of delay in filing the OA.

2. Heard Mr. Sachin Chauhan, counsel for applicant and Mr. Rajesh Katyal, counsel for respondents, perused the pleadings and all the judgments produced by both the parties.

3. In OA the applicant has prayed for the following reliefs:-

- “(i) To quash and set aside the SCN dated 27.05.2013 and to further direct the respondents that the Tier-II (morning shift) exam. Be evaluated and further the applicant be given appointment as per the merit obtained in present selection process conducted by SSC under Combined Graduate Level Examination (CGL), 2012 with all consequential benefits including seniority and promotion and pay & allowance.
- (ii) Any other relief which this Hon'ble court deems fit and proper may also be awarded to the applicant.”

4. The relevant facts of the case are that this OA has been filed challenging the Show Cause Notice dated 27.05.2013 along with an accompanying MA seeking condonation of delay of 1385 days. From the scrutiny of the MA, it is clear that no detail of day-to-day explanation is given explaining satisfactorily the delay of 1385 days. The respondents have submitted that the OA be dismissed as that applicant has not given any reason for the condonation of delay. In support of their submissions the respondents have relied upon the law laid down by the Hon'ble Supreme Court in the case of **D.C.S.Negi Vs. Union of India and Ors** (SLP (C) CCNo. 3709/2011), which is extracted below:

"A reading of the plain language of the above reproduced section (i.e. section 21) makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clause (a) and (b) of section 21 (1) or section 21(2) or an order is passed in the terms of sub-section (3) for entertaining the application after the prescribed period. Since, section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is in 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)."

And they are relied upon several other judgments, which are listed below:

- (1) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 16921/2016 titled **Narendra Kumar Vs. UOI & Ors.**
- (2) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 21993/2015 titled **Narendra Kumar & Ors Vs. UOI & Ors.** And CWP No. 1436/2016 titled **Sanjeev Kumar Vs. UOI & Ors.**
- (3) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 12032/2016 titled **Raman Ahlawat Vs. UOI & Ors.**
- (4) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 29707/2017 titled **Lakhbir Singh Vs. UOI & Ors.**
- (5) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 20437/2016 (O&M) titled **Manoj Kumar Vs. UOI & Ors.**
- (6) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 1540/2018 titled **Rakesh Mann & Ors. Vs. UOI & Ors.**
- (7) Hon'ble High Court Punjab & Haryana at Chandigarh CWP No 16921/2016 titled **Narendra Kumar Vs. UOI & Ors.**
- (8) Hon'ble High Court of Delhi WP (C) No. 3410/2017 titled **Pardeep Kumar Vs. UOI & Ors.**

5. 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".

6. In view of the fact that the applicant had challenged SCN of 2013 which was issued with respect to the Combined Graduate Level Examination of 2010 notified in the Employment News dated 24.03.2012 and also the counsel for the respondents further submitted that the entire examination process is over long ago, and also in view of the law laid down by the Hon'ble Supreme Court, the inordinate delay and laches on the part of the applicant cannot be condoned.

7. Hence, MA is dismissed. Consequently, OA is also dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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