

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

Order reserved on: 26.07.2018

**ORIGINAL APPLICATION NO. 060/00204/2017 &
M.A. No. 060/00409/2017**

Chandigarh, this the 31st day of July, 2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...

Dr. Harjit Singh, age 60 years, son of late S. Bachan Singh, retired as Officiating Senior Library and Information Officer, Post Graduate Institute of Medical Education and Research, Chandigarh, Sector 12, Chandigarh, R/o House No. 249, Gali No. 6, Vikas Nagar, Nawan Gaon, Mohali (Group-A)

....APPLICANT

(Argued by: Shri R.K. Arora, Advocate)

VERSUS

1. Union of India through the Secretary, Ministry of Health and Family Welfare, Nirman Bhavan, New Delhi.
2. The Post Graduate Institute of Medical and Research, Chandigarh through its Director.

....RESPONDENTS

(Argued by: Mr. Ram Lal Gupta, for respondent no. 1.
Shri Vikrant Sharma, Advocate for respondent no. 2)

ORDER

AJANTA DAYALAN, MEMBER (A)

M.A. No. 060/00409/2017

This M.A. has been filed for condonation of delay in Original Application (OA) by applicant Dr. Harjit Singh. The prayer of the O.A. is for the following reliefs:-

- i) Grant of pay scale of Rs. 10,000-15,200/- instead of Rs. 8,000-13500/- from the date of his promotion on the post of Library and Information Officer; and

- ii) for grant of pay and emoluments of the higher post of Senior Library and Information Officer in the pay scale of Rs. 15600-39100 plus 7600 grade pay w.e.f. 10.6.2010 to the date of his retirement on 30.4.2016 with all consequential benefits including fixation of his all retirement benefits on the basis of enhanced last drawn pay.

2. In the M.A., condonation of delay of 6 years and 147 days is sought in respect of 1st relief. This period is worked out with reference to the order dated 21.10.2010 (Annexure A-10) of the respondents rejecting his representation. As regards 2nd relief sought by him, it is stated to be within the limitation period.

3. The notice in M.A. for condonation of delay was issued by this Tribunal vide order dated 22.03.2017, pursuant to which reply has been filed by respondent no. 2 which has been adopted by respondent no 1 as per submission made at the bar on 12.10.2017.

4. We have heard the learned counsels appearing for the parties on the M.A. for condonation of delay.

5. As regards the 1st relief claimed which is sought from the date of his promotion i.e. 25.5.2007, it is stated by the respondents that the same was declined by the respondent department vide order dated 8.3.2008 (Annexure A-6) and order dated 21.10.2010 (Annexure A-10) was only a reply to the similar representation again made by the applicant on 6.9.2010. Hence, the actual delay is not as calculated by the applicant, but is almost 9 years.

6. Regarding the 2nd relief, the respondents have pleaded that the claim has been made from 10.6.2010 till the date of retirement, and even as per the averment made by the applicant, the first

representation was statedly made only on 14.5.2016 i.e. after his retirement. No claim was preferred by him during his service of almost six years after 10.6.2010 from which date the claim has been preferred. Even the representation dated 14.5.2016 is not available on official records and appears to have been prepared only to cover the delay. In any case, as the cause of action had arisen in 2010, the applicant should have made the claim immediately thereafter and not waited for 6 years and until after his retirement, to have made his first representation. No cogent reason has been given for delay in making representation and hence the same is not covered under the limitation period. As no M.A. has been filed for this delay, the O.A. for the second relief deserves dismissal.

7. We have considered the matter and are with the view that there is no doubt that there is inordinate delay by the applicant in approaching this Tribunal for the reliefs claimed. In fact, with regard to the first relief, the applicant is working out the delay with reference to subsequent rejection letter of 21.10.2010 of the respondent department whereas the representation of the applicant on the same issue was already turned down on 8.3.2008 itself (Annexure A-6). Hence the delay in filing of O.A. needs to be worked out from this date and not from 21.10.2010. The applicant has not produced any cogent reason for the inordinate delay in filing the instant O.A. except quoting recurring financial loss. If the applicant had any reservation on the rejection order dated 8.3.2008 like it being 'non-speaking, illegal and contrary to Central

Government Pay Revision Rules' etc. as is being made out now in the M.A., he should have come before the higher authorities or approached this Tribunal immediately thereafter. The applicant has not done this and has rather kept quiet for over 6 years even as per his own admission and has waited till his retirement before filing the O.A. on 22.2.2017.

8. Even with regard to 2nd relief, the position seems no better. The applicant has claimed that this O.A. is within limitation period, but fails to explain as to why he kept quiet for almost 6 years as he is now claiming benefits from 10.6.2010 and is he himself admitting that his first representation was made only on 14.5.2016 after his retirement. Even this representation is not available on official records. The possibility of this representation being made out only to cover the delay cannot be ruled out.

9. It is clear from the above that the OA in respect of both the reliefs sought by the applicant is filed beyond the limitation period and after a gap of about 9 years in case of 1st relief and almost 7 years in case of 2nd relief. No cogent reasons have been given for such inordinate delay. The applicant is a well educated person and should have been aware of his entitlements and if he had any grievance, he should have agitated the matter in the right forum at an appropriate time. Section 21 of the Administrative Tribunals Act, 1985 clearly provides that the 'Tribunal shall not admit an application' where the cases are beyond the period prescribed therein. As discussed above, there is no doubt in the present case that the limitation period is long over. The saving clause 21 (3)

whereby the Tribunal is allowed to admit an application beyond the prescribed period if it is satisfied that the applicant 'had sufficient cause for not making the application within such period' also does not help in the present case as no sufficient cause for the delay has been made out.

10. Besides the above, even on merits we do not find much substance in the O.A. The main contention of the applicant is based on seeking parity with the Central Government pay scales for similar posts in terms of the regulations of the Institute. The Tribunal notes that as per Annexure A-10 dated 21.10.2010, the respondents have rejected the claim of applicant for higher pay scales giving detailed reasons. In short, they have stated that the post of Library and Information Officer which fell vacant after retirement of the then incumbent in November 1995 could not be filled up due to non-availability of suitable candidates despite having been advertised a number of times as the Recruitment Rules applicable to the post allowed the post to be filled up only by direct recruitment. Resultantly, in order to fill up the post, the Institute decided to revise the Recruitment Rules by allowing the post to be filled up by 100% promotion. The revised Recruitment Rules were notified vide endorsement no. F. 19002/EI(2)-PGI-2006 dated 15.2.2006. At that time the pay scales of the post were downgraded from Rs. 10000-15200 to Rs. 8000-13500/-. As the applicant was promoted only in May 2007, he is not entitled to the higher pay scale being claimed by him. Even the question of parity of pay scales with Central Government pay scales does not remain

relevant as the method of recruitment has been changed from 100% direct recruitment to 100% promotion. The order revising the Recruitment Rules and reducing the pay scale is not under challenge and is not even on the record of the case.

11. In view of all above, M.A. is dismissed and consequently O.A. also stands dismissed.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 31.07.2018
`SK'



