

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**M.A. No.60/00342/2017 IN
O. A. No.60/00223/2017**

Date of decision: 04.07.2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

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Rani Devi aged 48 years, wife of Sh. Raja Ram, Resident of Ram Colony,
Jind, District Jind (Category Class IV Employee).

... APPLICANT

VERSUS

1. Indian Red Cross Society, Jind, District Jind, through the Deputy
Commissioner-cum-President, Jind, District Jind.
2. Secretary, Indian Red Cross Soccity, Jind, District Jind.

... RESPONDENTS

PRESENT: Sh. Sunil Kumar Bhardwaj, counsel for the applicant.
Sh. Chirag Kundu, counsel for the respondents.

ORDER (Oral)

...

SANJEEV KAUSHIK, MEMBER (J):-

1. The applicant has filed the present O.A. under Section 19 of the
Administrative Tribunals Act, 1985, challenging the orders dated
09.10.2007 whereby her claim for regularization of her services has been
declined.
2. Along with the O.A., applicant has also filed Miscellaneous
Application under Section 19 (3) of the Administrative Tribunals Act,
1985, read with Section 5 of the Limitation Act, 1963, for condonation of
535 days' delay in filing the O.A.

3. This Court at first instance issued notice on application for condonation of delay to which the respondents have filed reply.

4. We have heard learned counsel for the parties

5. Sh. Bhardwaj, learned counsel for the applicant vehemently argued that once this Court has allowed the applicant to withdraw her earlier O.A. enabling her to challenge order dated 09.10.2007, on concession given by the respondents, then respondents cannot raise plea of delay.

6. Learned counsel for the respondents vehemently opposed the prayer submitting that no concession was given by him and he only agreed to the prayer to withdraw the O.A. made by the applicant but there was no plea or concession that respondents will not raise objection with regard to delay in a subsequent petition, which can even otherwise be raised at any point of time.

7. We have gone through pleadings and arguments advanced by learned counsel for the parties.

8. We are in agreement with the argument advanced at the hands of the respondents that if earlier O.A. was allowed to be withdrawn, vide order dated 08.05.2015, on the request of the applicant, then that would not take away right of the respondents to take plea with regard to delay and also on merit, more so when there is no finding given by this Court with regard to delay in favour of the applicant. Moreover, condonation of delay plea can be allowed only if sufficient cause is shown to the Court of law. Since the applicant has not given any plausible explanation for not approaching the Court of law at earlier point of time and in view of the settled law that fence sitters, who do not approach the Court in time, cannot claim that such relief should have been extended to them also, so

the applicant cannot be granted any benefit. Our view is fortified by judgment in the case of **Bhup Singh versus Union of India & Ors.** (1992 A.I.R. S.C. Page 1414), **Union of India & Ors. Versus M.K. Sarkar** (2010(2) S.C.C. Page 58), **S.S. Rathore vs State Of Madhya Pradesh** 1990(4) SCC 582, of **C. Jacob vs. Director of Geology and Mining & Anr.** 2009 (10) SCC 115 and **Union of India & Ors. Versus A. Durairaj** (J.T. 2011(3) S.C. Page 254.

9. Accordingly we find no reason to condone huge delay of 535 days and M.A. for condonation of delay is therefore dismissed being devoid of merit and accordingly O.A. is also dismissed being barred by time. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 04.07.2018.
Place: Chandigarh.

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