

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O. A. No.60/273/2018

Date of decision: 12.03.2018

...

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

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Bhagwat Singh, aged 67 years, S/o Sh. Amar Singh, Phone Mechanic (Retd.), R/o House No.31152, Paras Ram Nagar, Street No.12/1, Ward No.45, Duba Colony, Bathinda.

... APPLICANT

VERSUS

1. Union of India through Secretary, Ministry of Communication and IT, Department of Telecommunication, Sanchar Bhawan, New Delhi-110001.
2. Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001 through its Chairman cum Managing Director.
3. General Manager, Telecom/D, Bharat Sanchar Nigam Limited, Bharat Nagar, Bathinda, Punjab.
4. The Deputy General Manager, Telecom, Office of General Manager, Telecom, BSNL, Bathinda Telecom District, Bathinda,.

... RESPONDENTS

PRESENT: Sh. A.K. Walia, counsel for the applicant.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. By means of present O.A., the applicant assails orders Annexures A-7 and A-8 dated 24.7.2014 and 26.07.2014 respectively whereby his representation against adverse remarks in ACRs for the period 2007-08 and 2008-09 have been rejected.
2. We have heard learned counsel for the applicant and find no reason to interfere in the matter as the petition is hopelessly time barred. The applicant has impugned orders of 2014 without there being any application for condonation of delay.
3. As per Section 21 of the Act, an Application under Section 19 of the Act can be filed within one year from the date of cause of action, which can be extended by another six months if any statutory appeal or revision is pending. Beyond that an application for condonation of delay as provided under Section 21(3) of the Act is to be filed with sufficient cause. The delay and laches must be explained to the satisfaction of the Court for seeking condonation of delay as held in the case of **Bhup Singh versus Union of India & Ors.** (1992 A.I.R. S.C. Page 1414). Section 21 of the Act, came up for consideration before the Hon'ble Apex Court in the case of **Union of India & Ors. Versus M.K. Sarkar** (2010(2) S.C.C. Page 58), wherein it has again been reiterated that limitation has to be counted from the date of original cause of action and decision on a belated representation would not revive the cause of action. It has been 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 of 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. Moreover, 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. If 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 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."

4. The applicant has failed to show sufficient cause for such huge delay. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation, a person who has lost his remedy by lapse of time loses his right as well. Therefore, we do not find any reason to interfere in the matter at this stage to unsettle the settled matters.
5. Accordingly, the O.A. is dismissed in limine being hopelessly time barred.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 12.03.2018.
Place: Chandigarh.

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