(RESERVED ON 21.06.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD
(CIRCUIT SITTING AT NAINITAL)

This is the **22nd** day of ***JUNE 2018***.

ORIGINAL APPLICATION NO. 331/61/2016

HON'BLE MR JUSTICE DINESH GUPTA, CHAIRMAN.
HON'BLE MR GOKUL CHANDRA PATI, MEMBER (A).

1. Mahesh Chandra Pandey, Aged about 61 years, S/o Late Sri U.D. Pandey, R/o New Colony, Village Shivlalpur Pandey, Ramnagar, P.O. Ramnagar, District Nainital.

.....Applicant.

VERSUS

1. Union of India, Through Secretary Ministry of Defence, New Delhi.
2. Director General, Defence Research and Development Organization, DRDO Bhawan, Rajaji Marg, New Delhi – 110011.
3. Director, Defence Institute of Bio Energy Research, Gora Paraow, Haldwani – 263159, Uttarakhand.
4. Indian Council of Agriculture Research, Through its Director General, Krishi Bhawan, New Delhi 110001.

.....Respondents

Advocate for the Applicant : Shri Devesh Upreti

Advocate for the Respondents : Shri D S Shukla
Shri A S Bisht

O R D E R
(Delivered by Hon'ble Mr. Gokul Chandra Pati, Member-A)

The present Original Application (in short OA) has been filed by the applicant under Section-19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

> *"(a) After setting aside the orders dated 16th October 2015 and 30th November 2015, the 2 years diploma of the applicant be declared as equivalent to three years diploma, as per the ICAR Rules, 1975 and accordingly it may be declared that the 2 years diploma of the petitioner was valid and applicable for the recruitment to the post of JSA-1 in the department of the respondents in the year 1980.*
>
> *(b) The respondents be directed that the petitioner was eligible for the posts of SSA and JSA-1 at the time of his initial appointment and therefore the applicant be given appointment to the post of SSA and/or JSA-1 from the date of his initial appointment and accordingly the consequential benefits be given to him.*

(c) *The applicant be granted the cadre of TO 'D' before the date when identical diploma holders candidates were granted the same grade, who were junior to the applicant.*

(d) *The applicant/applicant be granted all the back wages of higher grade with benefits, arrear of pay and allowances.*

(e) *Any other relief which in the ends of justice and under the circumstances of the case the Hon'ble Members of the Tribunal may deem fit and proper.*

(f) *Award the cost of the petition to the applicant/applicant."*

2. Facts of the case in brief are that the applicant joined as Fieldman with the respondents on 8.4.1980. He has completed a two-year diploma course in Agriculture and Extension. After joining as Fieldman, the applicant started submitting representations from time to time for being posted against a higher post by virtue of the fact that he is a diploma holder and this diploma is recognized for some technical posts under ICAR under the Ministry of Agriculture, but not by the respondents. As and when the applicant was promoted by the respondents, the applicant submitted for a higher post, but no action was taken by the respondents. It is submitted by the applicant that after implementation of 6th Pay Commission report, his pay scale was fixed at a lower pay scale compared to pay scale in which his pay should have been fixed taking into account his diploma qualification. It was also submitted that in two cases as mentioned in the OA, where the employees concerned had qualification similar or less than the qualification of the applicant, the respondents allowed them to be appointed in a post higher than the post of Fieldman.

3. In the Counter Reply, the respondents mentioned that the applicant did not fulfil the qualification for higher post of JSA-I and JSA-II and that the qualifications prescribed by ICAR will not be applicable for the posts under the respondents. It is further submitted that the applicant's diploma is not recognized by Government of India for central government posts vide the Ministry of Defence order dated 13.9.1991 (Annexure CR-4 to the

Counter Reply). It also submitted that the applicant did not fulfil the QR for the post of SSA and that the applicant was initially appointed to a temporary post and he was well aware of the pay scale and terms of employment before he joined. However, he was absorbed subsequently in a similar post of permanent nature in DRDO. Vide order dated 28.10.2005 (Annexure CR-7 to the Counter Reply), it was decided by the respondents that 2-year diploma in Agriculture cannot be equivalent to 3-year diploma.

4. The applicant has filed a Rejoinder, broadly denying the contentions of the respondents in the Counter. With regard to the averments of the respondents about the non-equivalence of 2-year diploma and 3-year diploma as per specific order dated 28.10.2005 (Annexure CR-7), it is stated in para 19 of the Rejoinder that the order dated 28.10.2005 did not take into account the recommendations of 3rd JCM (Council). No specific rule has or guidelines have been quoted in the Rejoinder to counter these averments of the respondents. Similarly, the contentions in the Counter Reply regarding non-fulfilment of qualification requirements for higher posts as claimed by the applicant, different paragraphs of the Rejoinder have simply reiterated the contentions in the OA that as ICAR has recognized his diploma for technical posts under ICAR, the same should be recognized by the respondents and no rule or guidelines of the respondents have been furnished in support of the contentions of the applicant in this regard.

5. Learned counsel for the applicant was heard. Presenting a synopsis of the factual matrix of the case, he stated that the applicant retired as Technical Officer from the Defence Institute of Bio Energy Research, Field Station, Pithoragarh under Defence Research Development Organization (in short DRDO) on 30.11.2015 after serving about 38 years. He has a

diploma in Agriculture and Extension and was appointed first as a Fieldman on 8.4.1980. When he learnt that there is no cadre of fieldman in DRDO, he submitted representation to be appointed at a higher post of Farm Manager or Junior Scientific Assistant (in short JSA) for which he was qualified. On 16.4.1988, the applicant was appointed as JSA-II although he was eligible for higher post of JSA-I. The DPC for the post of JSA-I was held in 1991 and the applicant was selected and joined on 13.1.1992. Employees holding the post of JSA-I were re-categorized in 1995 as Technical Assistant for the non-graduates like the applicant and as Technical Assistant B for the graduates. The applicant submitted a representation on 14.12.1995 (Annexure no. 22 to the OA) that he was wrongly placed after re-categorization and claimed for a higher post, but no action was taken by the respondents. It is the case of the applicant that he was placed in a lower pay scale and grade pay after implementation of 6th Central Pay Commission in view of non-recognition of the diploma qualification of the applicant for promotion to higher scale to which his juniors were promoted. A representation dated 26.4.2012 (Annexure no. 30 to the OA) explaining how his case was not considered for promotion against vacant posts in spite of his representations, where as persons having three year diploma and junior to the applicant have got promotion to higher post than the applicant. He also submitted another representation on 30.8.2012 (Annexure no. 31). But his representations were not considered by the respondents for which juniors of the applicant became seniors. It was also submitted that two employees i.e. Sri MK Pant and Sri VK Joshi who had same or less qualification than the applicant were appointed as SSA initially after appointment of the applicant who was initially appointed at a lower post of as Fieldman.

6. It was further submitted by the applicant's counsel that being aggrieved by illegal action of the respondents, the applicant filed a writ petition before Hon'ble High Court which was dismissed vide order dated 16.4.2013 (Annexure no. 34 to the OA), which was challenged in the Special Appeal No. 154 of 2013. But due to some technical mistakes, the applicant withdrew the special appeal and vide order dated 28.7.2014 (Annexure no. 36), the applicant was allowed liberty to move a review application against order dated 16.4.2013. During pendency of the review petition, the applicant was designated as Group B Gazetted Officer for which he moved for withdrawal of writ petition with liberty to file writ before competent court. Vide order dated 23.8.2014, Hon'ble High Court dismissed the review application and gave liberty to the applicant to file a fresh writ for separate cause of action. Then the applicant submitted further representations. Vide letter dated 19.2.2015 (Annexure no. 40), the respondent no.3 replied to the applicant that his diploma in Agriculture and Extension is not equivalent to other diploma courses which are of three year duration. Respondent no.2 rejected the representation dated 17.8.2015 (Annexure no. 43) of the applicant vide order dated 16.10.2015 (Annexure no.1 to the OA) on the ground that the applicant's diploma is not equivalent to other three year diploma courses. It was submitted that it was illegal on the part of the respondents not to consider his diploma as equivalent to three year diploma although as per the instructions of the ICAR, such two year diploma has been recognized as recognized qualification for some technical posts for which both three year diploma and two year diploma have been prescribed as minimum qualification.

7. It was also submitted by the applicant's counsel that the Rule 9 of the DRDO Technical Cadre Rules, 2000 provides that the employees in position at the commencement of the rule shall be exempt from the

requirement of qualifications prescribed in these Rules for the purpose of promotion. But the applicant was not allowed benefit of such relaxation. Learned counsel for the applicant also submitted a detailed written argument of his case.

8. In reply, learned counsel for the respondent no. 1 to 3 submitted that the applicant does not fulfil the qualification criteria for various promotional posts for which the applicant claims promotion as explained in the Counter Reply. With regard to the contention of the applicant that his two year diploma has been recognized alongwith three year diploma for various technical posts under the respondent no. 4 i.e. ICAR, it was submitted that as per the Counter filed by the respondent no.4 it is clarified that the guidelines for ICAR are applicable for the ICAR employees only. Hence, these are not applicable for the applicant.

9. Learned counsel for the respondent no.4 (ICAR) submitted that ICAR has been wrongly impleaded as a party since there is no relief claimed in the OA against ICAR (respondent no.4) and that the OA suffers from the defect of arraying the respondent no.4 which is not a necessary or proper party for the OA.

10. We have considered the submissions and the pleadings of the parties. The applicant has grievance from the date of his first appointment as a Fieldman in the year 1980 and at every promotion allowed to him. He has not raised any dispute until he filed a writ petition before Hon'ble High Court in 2013, which was dismissed. He filed a Special Appeal before Hon'ble High Court which was subsequently withdrawn to file a Review application in Hon'ble High Court. After the applicant's post was upgraded to Group B, the Review application and the writ were withdrawn to file the

dispute before the competent Court. It is stated by the applicant that vide order dated 23.8.2014, Hon'ble High Court dismissed the review application and gave liberty to the applicant to file a fresh writ for separate cause of action. However, no such writ was filed before a competent court and the applicant continued to file further representations knowing fully well that his previous representations have been rejected by the respondents giving specific reasons. When no action was taken by the respondents on the representations, the applicant filed the present OA which is delayed very badly from the date when the cause of action arose as per the provisions of the Administrative Tribunals Act. 1985. Even if the time is counted from the date 23.8.2014 when the Review application before Hon'ble High Court was withdrawn, there is a delay of about two years in filing this OA. It is further noted that no application for condonation of delay has been filed by the applicant as required under the rule 8 of the CAT (Procedure) Rules, 1987.

11. There are a number of judgments in different cases regarding the issue of delay and laches in seeking remedy under the Administrative Tribunals Act. 1985. Hon'ble Apex Court in the case of **Union of India & vs. Tarsem** (https://indiankanoon.org/doc/26187086/) while deciding the cases which will be barred by delay, laches in seeking the remedy as per provisions of law, has held as under:-

> "5. *To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief*

may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

12. In the case of **Ramesh Chand Sharma Etc vs Udham Singh Kamal And Ors**, (https://indiankanoon.org/doc/166621/) Hon'ble Apex Court has held as under:-

"7. On perusal of the materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under Section 21(3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the O.A. filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21(1) of the Administrative Tribunals Act, 1985....."

13. In the case of **Sh.Subhash Kumar vs. Union of India & Others** (https://indiankanoon.org/doc/33632629/) decided by the Principal Bench of this Tribunal, it was held as under:-

"20..... Being of this view, the tribunal directed that the respondents shall be given benefits of promotion with effect from November, 1983 and as they had already been promoted in the year 1989, they would be entitled to notional promotional benefits from 15.11.1983. Assailing the order of the tribunal the State of Uttarakhand and its functionaries preferred Writ Petition No. 133 of 2006 before the High Court of Uttarakhand at Nainital. The High Court opined that Madhav Singh Tadagi was promoted on ad hoc basis, continued in the said post and was allowed increments and the promotional pay-scale till his regular promotion, and the claimants though seniors, were promoted on a later date on regular basis and, therefore, the directions issued by the tribunal could not be found fault with. After disposal of the writ petition, an application for review was filed with did not find favour with the High Court and accordingly it dismissed the same by order dated 2.3.2012. Hence, appeals by special leave were preferred challenging the said orders. Allowing the appeal and setting aside the orders passed by the tribunal and the Hon'ble High Court, the Hon'ble Supreme Court observed and held thus:

13. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held the promotional post for six

years till regular promotion took place. The submission of the learned counsel for the respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983. In C. Jacob v. Director of Geology and Mining and another, (2008) 10 SCC 115, a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus:

‼Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.¶

14. In Union of India and others v. M.K. Sarkar, (2010) 2 SCC 59. this Court, after referring to C. Jacob (supra) has ruled that 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 cannot 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.

15. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action. The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time. In Karnataka Power Corpn. Ltd. through its Chairman & Managing Director v. K. Thangappan and another, (2006) 4 SCC 322, the Court took note of the factual position and laid down that when nearly for two decades the respondent-workmen therein had remained silent mere making of representations could not justify a belated approach.

16. In State of Orissa v. Pyarimohan Samantaray, (1977) 3 SCC 396, it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was

reiterated in State of Orissa v. Arun Kumar Patnaik, (1976) 3 SCC 579.

.....

22. There is another aspect of the matter which cannot be lost sight of. The applicant filed the Original Application after 12 years of the promotion of private respondent no.3, and 9 years after his promotion to the post of S.W. He has averred in the Original Application that the Chandigarh Bench in R.K.Gupta⤴s case (supra) had declared that Degree in Civil Engineering could be regarded as equivalent to pass in Final Examination of the Institution of Surveyors (India) and directed the official respondents to accord promotion to the applicant in that case; that the SLP filed against the said decision was dismissed by the Hon⤴ble Supreme Court; and that the official respondents implemented the Chandigarh Bench⤴s decision dated 15.11.1996. It has also been averred by the applicant that the Chandigarh Bench in the case of Sunil V.Mane⤴s case (supra), decided on 2.8.2000 had also taken the same view and the writ petition filed against the said decision was dismissed by the Hon⤴ble High Court of Punjab & Haryana. It has also been averred by the applicant that the Full Bench of the Tribunal in O.A.Nos. 1290 and 1476 of 2001 and 1275 of 2002, decided on 3.3.2003, had also taken similar view and the writ petitions filed against the Full Bench⤴s decision were disposed of by the Hon⤴ble High Court of Delhi directing the respondents to provisionally promote the applicants therein to the post of S.W. It is thus clear that the applicant did not agitate his grievance for long time. The applicant, as noticed herein, did not claim parity with the applicants in those cases at the earliest possible opportunity. He did not even make any representation to the departmental authorities to extend the similar benefits in 2001 when the private respondent no.3 was promoted or in 2004 when he was promoted to the post of S.W. After such long time, therefore, the Original Application cannot be entertained by the Tribunal even if he is similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court/Tribunal after long time. Delay and laches are relevant factors for exercise of equitable jurisdiction. In this connection reference is made to the following decisions.

23. In M/s. Rup Diamonds & Ors. v. Union of India & Ors., (1989) 2 SCC 356, the Hon'ble Supreme Court observed that those people who were sitting on the fence till somebody else took up the matter to the court for refund of duty, cannot be given the benefit. In that context, their Lordships held as follows :

> *"Petitioners are re-agitating claims which they had not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a court, so as to enable persons to recover monies paid under the compulsion of a law later so declared void. There is also an unexplained, inordinate delay in preferring the present writ petition which is brought after a year after the first rejection. As observed by the Court in Durga Prashad case, the exchange position of this country and the policy of the government regarding international trade varies from year to year. In these matters it is essential that persons who are*

> *aggrieved by orders of the government should approach the High Court after exhausting the remedies provided by law, rule or order with utmost expedition. Therefore, these delays are sufficient to persuade the Court to decline to interfere. If a right of appeal is available, this order rejecting the writ petition shall not prejudice petitioners' case in any such appeal. "*

24. In State of Karnataka & Ors. v. S.M.Kotrayya & Ors., (1996) 6 SCC 267, the respondents woke up to claim the relief which was granted to their colleagues by the Tribunal with an application to condone the delay. The Tribunal condoned the delay. Therefore, the State approached the Hon⤴ble Supreme Court. Their Lordships, after considering the matter, observed as under :

> *"....it is not necessary that the respondents should give an explanation for the delay which occasioned for the period mentioned in sub-section (1) or (2) of Section 21, but they should give explanation for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be required to satisfy itself whether the explanation offered was proper explanation. In this case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore, the Tribunal is wholly unjustified in condoning the delay."*

25. In Jagdish Lal & Ors. v. State of Haryana & ors. (1997) 6 SCC 538, this Court reaffirmed the rule if a person chose to sit over the matter and then woke up after the decision of the Court, then such person cannot stand to benefit. In that case it was observed by the Hon⤴ble Supreme Court that the delay disentitles a party to the discretionary relief under Article 226 or Article 32 of the Constitution of India. The appellants kept sleeping over their rights for long and woke up when they had the impetus from the case of Union of India v. Virpal Singh Chauhan, (1995) 6 SCC 684. The appellants⤴ desperate attempt to redo the seniority is not amenable to judicial review at this belated stage.

26. In Union of India & Ors. v. C.K. Dharagupta & Ors.(1997) 3 SCC 395, it was observed as follows :

> *" We, however, clarify that in view of our finding that the judgment of the Tribunal in R.P.Joshi gives relief only to Joshi, the benefit of the said judgment of the Tribunal cannot be extended to any other person. The respondent C.K.Dharagupta (since retired) is seeking benefit of Joshi case. In view of our finding that the benefit of the judgment of the Tribunal dated 17-3-1987 could only be given to Joshi and nobody else, even Dharagupta is not entitled to any relief."*

27. In Government of W.B. v. Tarun K. Roy & Ors. (2004) 1 SCC 347, the Hon⤴ble Supreme Court considered delay as serious factor and did not grant relief. Therein it was observed as follows :

"The respondents furthermore are not even entitled to any relief on the ground of gross delay and laches on their part in filing the writ petition. The first two writ petitions were filed in the year 1976 wherein the respondents herein approached the High Court in 1992. In between 1976 and 1992 not only two writ petitions had been decided, but one way or the other, even the matter had been considered by this Court in Debdas Kumar. The plea of delay, which Mr.Krishnamani states, should be a ground for denying the relief to the other persons similarly situated would operate against the respondents. Furthermore, the other employees not being before this Court although they are ventilating their grievances before appropriate courts of law, no order should be passed which would prejudice their cause. In such a situation, we are not prepared to make any observation only for the purpose of grant of some relief to the respondents to which they are not legally entitled to so as to deprive others there from who may be found to be entitled thereto by a court of law."

.....

29. Considering the facts and circumstances of the present case in the light of the above decisions, we are of view that the applicant's claim is clearly hit by the principles of acquiescence, waiver and estoppel.

30. In the light of the above discussions, we arrive at the following findings:

(i) The O.A. is not maintainable as being hit by Section 20 of the Administrative Tribunals Act, 1985;

(ii) The O.A. is barred by limitation in terms of Section 21 of the Administrative Tribunals Act, 1985; and The O.A. is also hit by the principles of acquiescence, waiver and estoppel.

Therefore, the applicant is not entitled to the relief claimed by him in the O.A. This apart, entertaining such claim, as has been made by the applicant in the present O.A., will not only unsettle the settled position but also encourage other similarly placed persons to file unnecessary litigations."

14. In the case of **Shashi Kumar Singh v. Union Of India Thru Secy. Ministry Of Communications & Other**, Hon'ble Allahabad High Court has held as under:-

"*This writ petition has been filed challenging the order dated 29.02.2012 passed by Central Administrative Tribunal (in short 'Tribunal') by means of which claim of the petitioner in respect of compassionate appointment has been rejected.*

Admittedly, the order of rejection was passed in the year 2008 and the said order was served upon the petitioner in July, 2008. It is submitted on behalf of the petitioner that thereafter a representation

was moved by the petitioner in the year 2008, therefore, the limitation ought to have been counted as provided under Section 21 of the Administrative Tribunals Act, 1985. Section 21 reads as under:

> *"21. Limitation.*
>
> *(1) A Tribunal shall not admit an application,*
>
> *(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;*
>
> *(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.*
> *(2) Notwithstanding anything contained in sub-section (1), where*
>
> *(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and*
>
> *(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,*
>
> *the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.*
>
> *(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1), or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."*

For ready reference sub-rule (4) of Rule 8 of the Central Administrative Tribunal (Procedure) Rules, 1987 is quoted below:

> *"8. Contents of application.*
>
> *(1) ....*
> *(2) .....*
> *(3) .....*
> *(4) Where the applicant seeks condonation of delay, he shall file a separate application supported by an affidavit."*

We find that after rejection of the claim of the petitioner in the year 2008 and its service upon the petitioner in July, 2008, filing of representation will not extend the period of limitation unless the Rules contemplate filing of any representation or appeal. Admittedly, no appeal was filed by the petitioner and moving a representation by

him just to gain limitation will not extend the benefit to the petitioner. Even if we accept the argument of the counsel for the petitioner in respect of condoning the delay then we also find that representation was moved in the year 2008 and after expiry of period of one year, the claim petition could have been filed within a period of one year i.e. by July, 2009 as contemplated under Section 21(1)(a) of the Act. Admittedly, the original application has been filed in March, 2010 therefore also the argument of the counsel for the petitioner fails and the period of limitation as provided under the Act cannot be overlooked by this Court as the period of limitation casts an obligation upon the Tribunal as well as upon this Court. The claim of a person, who is sleeping over his claim, making it redundant, this Court cannot extend any benefit overlooking the period of limitation."

15. As discussed in para 10 of this order, this case is hopelessly delayed, even after taking into account the date when the Review application before Hon'ble High Court was withdrawn by the applicant to file the case before a competent court. Taking into account the legal principles decided in the judgments discussed above, we are of the considered view that the applicant has failed to resort to the remedy under the provisions of the Administrative Tribunals Act. 1985 within the time stipulated under the law and the belated OA, filed without an application for condonation of delay, is liable to be dismissed.

16. It is also seen that the applicant's grievances for similar relief were dismissed on merit by Hon'ble High Court in WPSS No. 358 of 2013 vide order dated 16.04.2013 (Annexure No. 34 to the OA) which has not been modified or challenged before the competent court of law. Hence, the applicant cannot raise same disputes again in this OA, which is liable to be dismissed also on this ground.

17. Accordingly, the OA is dismissed being barred by limitation. No order as to costs

(GOKUL CHANDRA PATI)
MEMBER-A

(JUSTICE DINESH GUPTA)
CHAIRMAN

Arun..