

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This 5th day of **April** 2019

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J

Original Application No. 330/00156 of 2016

Chandrapal son of Late Ram Swaroop R/o Village Dhaurera, Tehsil Nawabganj, District Bareilly.

.....Applicant

By Advocate: Shri J.K.N Mishra

Versus

1. Union of India through Principal Secretary, Postal Department Ministry of Communication & IT Govt., of India.
2. Director of Account (Postal), U.P Circle, Aliganj, Sector-D, Lucknow.
3. Senior Post Master Bareilly.
4. Senior Superintendent Post Office, Bareilly.

... Respondents

By Adv: Shri V.K. Pandey

ORDER

1. The present O.A. has been filed by Chandrapal under Section 19 of the Administrative Tribunal Act seeking the following reliefs:

- "(i) Issue a suitable order or direction in the nature of mandamus directing the respondent to decide the claim of applicant's father insurance policy under CGFGIS Scheme after death on 13.11.2000.
- (ii) Issue any suitable order or direction in the nature of mandamus directing the

respondents to decide the pending application of applicant regarding insurance policy.

(iii) Issue any other order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

(iv) To award the cost of O.A.".

2. Case of applicant is that his deceased father Ram Swaroop died on 13.11.2000 joined service for post of EDR in the department post office Dhaurera on 01.03.1980 and transferred to Post office Shymatganj Bareilly vide order dated 06.07.1994 and handed over charge to Ram Pal on 07.07.1994 (Annexure No. 1). The department was deducting Rs. 5/- per month towards instalment of insurance from the salary of his father from the year 1985 which increased to Rs. 10 and Rs. 15/- till his death. Applicant avers that after the death of his father, he filed the necessary application along with prescribed form after recommendation of ASP, Bareilly before the office of respondent No. 4 but after sometimes another letter was issued for correction of Form No. 3 under payment of Insurance scheme dated 20.8.2002. Copy of letter dated 20.8.2002 is attached as Annexure No. 2. Thereafter, respondent issued another letter dated 3.12.2002 for filing up another form through proper channel which was duly submitted by the applicant vide letter dated 3.12.2002. Applicant submitted application in post office Dhaurera dated 27.3.2003 for recommendation of working and instalment under CGEGIS scheme from working post office Dhaurera so ASP (East) Bareilly and Mail overseer forwarded form of applicant in post office Dhaurera after recommending and returned the application to respondent No. 4 for payment under scheme dated 7.4.2003 and 28.4.2003. Applicant submitted application dated 18.5.2015 under RTI Act

to respondent No. 4. In response to said letter, he was informed that respondent No. 4 on 10.7.2015 that there is no record pertaining to his father so he cannot pass any order for payment under the Scheme. Hence the present O.A. to direct the respondents to decide the claim of insurance money of his father under CGEGIS after the death of his father on 13.11.2000.

3. In the counter affidavit, the main objection of respondents to reject the claim of applicant is based on Paragraph No. 3.1. of Central Government Employees' Group Insurance Scheme, 1980 which lays down that the scheme would not apply to persons recruited under the Central Government after attaining the age of 50 years. Respondents reject the claim of applicant on the ground that his father joined the department after completing 50 years of age, therefore, CGEGIS scheme is not applicable in the present case.
4. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record.
5. Apart from the merit of the case, the question arises as to whether the O.A. is barred by period of limitation, as per, Section 21 of the Administrative Tribunal Act, 1985. The cause of action accrued to the applicant at the time of death of his father in the year 2000. Applicant maintained contact with the department till the year 2003 and thereafter he approached the department in the year 2015 seeking information under RTI Act and then filed the present O.A. in the year 2016.
6. Applicant states in the O.A. that the application has been filed within the prescribed period under Section 21 of the Administrative Tribunal Act, 1985. On the other hand, respondents would say that there is a great amount of delay in filing the O.A. and the delay has not been satisfactorily

explained by sufficient cause by the applicant and the O.A. is to be dismissed being barred by period of limitation. The cause of action accrued to the applicant in the year 2000 at the time of the death of his father or in 2003 when he corresponded with the respondents in the matter. But after 2003, applicant seems to have lost interest in pursuing the matter till 2015 when he filed application under the RTI Act.

7. Section 21 of the Administrative Tribunals Act, 1985, deals with the limitation. Section 21 reads as follows:-

"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 subsection (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 subsection (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".

8. On the question of delay, in Esha Bhattachargee Vs. Managing Committee of Raghunathpur Nafar Academy and Others (2013) 12 SCC 649, the Hon'ble Apex Court observed that : "The increasing tendency to perceive delay as a non- serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters."
9. In Chennai Metropolitan Water Supply and Sewarage Board and Others Vs. T.T. Murali Babu (2014) 4 SCC 108, it was held by the Hon'ble Apex Court as under:-

"13. First, we shall deal with the facet of delay. In *Marashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others*[AIR 1969 SC 329] the Court referred to the principle that has been stated by Sir Barnes Peacock in *Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp*[(1874) 5 PC 221], which is as follows:-

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

10. It is settled law that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21 (1) or Section 21 (2) or an order is passed in 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 within limitation.
11. In the instant case, applicant seeks relief pertaining to the year 2000 or alternatively year 2003 when he filed applications for insurance claim. Therefore the cause of action occurred to the applicant in the year 2000 or at the most in 2003 whereas the present *lis* has been filed in the year 2016.

12. Applicant has not given any sufficient reason, let alone a plausible reason to explain the delay in filing the present O.A. from the years 2000/2003.
13. The approach of the applicant from the beginning has been lackadaisical and indolent which is responsible for the inordinate delay in approaching this Tribunal. Delay and laches, on part of the applicant to seek remedy is written large on the face of record. To repeat the observations of Hon'ble Apex Court - In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition.
14. The applicant has not adduced sufficient cause that prevented him from filing the Application within the prescribed period of limitation. In a recent decision in SLP (C) No.7956/2011 (CC No.3709/2011) in the matter of D.C.S. Negi vs. Union of India & Others, decided on 07.03.2011, by the Hon'ble apex Court it has been held as follows:- "A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21 (1) or Section 21 (2) or an order is passed in 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 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)".
15. In the light of the aforesaid observation of the Hon'ble Supreme Court, I am not satisfied that the applicant had sufficient cause for not making the original application within the period of limitation of one year. No reasons are forthcoming in the O.A. to

make out sufficient cause to condone the delay. The cause of action, if any, had accrued to the applicant in the year 2000 or 2003.

16. Last but not the least, reference may be made to State Of Uttarakhand & Anr vs Shiv Charan Singh Bhandari & Ors on decided on 23 August, 2013 wherein the Hon'ble Apex Court on the question of laches and delay in coming to the court to decide matters of seniority, held that "We are absolutely conscious that in the case at hand the seniority has not been disturbed in the promotional cadre and no promotions may be unsettled. There may not be unsettlement of the settled position but, a pregnant one, the respondents chose to sleep like Rip Van Winkle and got up from their slumber at their own leisure, for some reason which is fathomable to them only. But such fathoming of reasons by oneself is not countenanced in law. Anyone who sleeps over his right is bound to suffer. As I perceive neither the tribunal nor the High Court has appreciated these aspects in proper perspective and proceeded on the base that a junior was promoted and, therefore, the seniors cannot be denied the promotion. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. I may hasten to add that the same may not be applicable in all circumstances where certain categories of fundamental rights are infringed. But, a stale claim of getting promotional benefits definitely should not have been entertained by the tribunal and accepted by the High Court. True it is, notional promotional benefits have been granted but the same is likely to affect the State exchequer regard being had to the fixation of pay and the pension. These aspects have not been taken into consideration. What is urged before us by the learned counsel for the respondents is that they should have been equally treated with Madhav Singh Tadagi. But

equality has to be claimed at the right juncture and not after expiry of two decades. Not for nothing, it has been said that everything may stop but not the time, for all are in a way slaves of time. There may not be any provision providing for limitation but a grievance relating to promotion cannot be given a new lease of life at any point of time."

17. In the light of the aforesaid settled principle of law and facts of the case as noted above, I am of the view that the applicant has failed to make out a sufficient cause for not making the original application within the period of limitation as envisaged by Section 21 of the Act. Accordingly the OA, being barred by period of limitation, is dismissed. There shall be no order as to costs.

(RAKESH SAGAR JAIN)
MEMBER-J

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