

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**ORIGINAL APPLICATION NO. 060/274/2018 &
M.A. No. 60/378/2018**

Chandigarh, this the 6th day of February, 2019

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

...

Ashwani Kumar aged 60 years s/o B.D. Bagga, Senior Technician, Department of Radio Diagnosis and Imaging, Postgraduate Institute of Medical Education and Research, Chandigarh, R/o House No. 1154, Sector 22/B, Chandigarh, Group-B.

....APPLICANT

(By Advocate: Shri Karan Singla)

VERSUS

1. Postgraduate Institute of Medical Education & Research, Chandigarh, Sector 12, Chandigarh through its Director .
2. Jagdish Singh, aged 59 years s/o S. Mohinder Singh, R/o House No. 758, Milk Colony, Dhanas, U.T. Chandigarh, Group-B.

....RESPONDENTS

(By Advocate: Shri Sanjay Goyal)

ORDER (oral)

SANJEEV KAUSHIK, MEMBER (J)

The applicant in the present O.A., has assailed order dated 14.1.2010 (Annexure A-8) whereby his request for promotion from a retrospective date, when his juniors were so promoted to the post of Sr. Technician i.e. w.e.f. 1.3.1992, has been rejected.

2. Alongwith O.A. the applicant has also filed an M.A. NO. 060/378/2018, seeking condonation of delay of 8 years, 2 months and 3 days in filing the accompanying O.A.

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

4. We have heard the learned counsel for the applicant as well as learned counsel for the respondents on the M.A.

5. The learned counsel appearing on behalf of applicant vehemently argued that there is no delay in filing the O.A. and M.A. has been filed as an abundant caution and in any case as the respondents have promoted Sh. Jagdish Singh, who is junior to the applicant to the post of Sr. Technician w.e.f. 1.3.1992 instead of 1.4.1992 vide office orders dated 21.11.2017 (Annexure A-7), therefore, the applicant being senior to him is entitled to be considered for promotion from the date when he has been so promoted i.e. 1.3.1992, therefore, he prayed that the delay in filing the O.A. be condoned.

6. On the other hand, learned counsel for respondents vehemently opposed the prayer for condonation of delay and submitted that the present O.A. be dismissed being hopelessly time barred as the case of the applicant was rejected in pursuance to orders passed by the Hon'ble High Court in CWP No. 11505 of 2007 which was decided on 20.3.2009 vide office order dated 14.01.2010. That office order was never challenged by the applicant and now when the applicant has been promoted in the year 2017 he has filed the present O.A. seeking ante-dating of his promotion from the date his junior has been so promotion. He further argued that since the applicant has accepted his promotion order dated

21.11.2017, without any protest so he cannot challenge that order after delay of more than 8 years. In support of his contention, he has placed reliance on the judgment of Hon'ble Supreme Court rendered in the case of **S.S. Rathore vs. State of M.P.** reported in 1990 SCC (L&S) 50 and **Union of India & Ors. vs A. Durairaj** reported in JT 2011 (3) SC 254 wherein Lordships have held that the applicant has to give detail of each day's delay to the satisfaction of the Court seeking condonation of delay and Court should not condone the day in a routine matters. He submitted that if the applicant was aggrieved with the action of respondents, then he had to approach the Court of law immediately without loss of time. By not approaching the Court in time, the applicant loses his right to challenge the action of respondents.

7. We have given our thoughtful consideration to the entire matter.

8. We find substance in the argument raised at the hands of learned counsel for respondents and the M.A. deserves to be dismissed and accordingly O.A. on the ground of delay because the applicant has not given any cogent reason as to why he has not approached the court of law immediately after rejection of his case way back on 14.1.2010 in consonance with Section 21 of the Administrative Tribunals, Act, 1985. Section 21 of the Administrative Tribunals Act, 1985 came up for consideration before Hon'ble Supreme Court wherein the Lordships in the case of **Union of India vs. M.K. Sarkar** (2010) 2 SCC 66 have held that limitation has to be applied rigorously and successive

representations will not extend the cause of action. Though sub-section 3 of Section 21 gives window to an aggrieved person to approach this forum even after delay, but he has to give proper reason in support of his plea, so that Court can condone the delay. Since, this O.A. has been filed after the delay of more than 8 years i.e. without any cogent reason for condoning the delay, we find no reason to condone the huge delay in filing the instant O.A. Accordingly, the M.A. is dismissed being devoid of any merits. Consequently, O.A. too stands dismissed being barred by limitation. No costs.

(P.GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 06.02.2019
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