

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
**MA No. 060/1200/2017, in
&
ORIGINAL APPLICATION N0.060/903/2017**

**Pronounced on : 23.01.2019
Reserved on :15.01.2019**

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

1. Arun Bansal, aged 35 years
2. Varun Bansal, aged 26 years

Both S/o Late Sh. Raj Kumar Bansal, resident of House No. 27, Bharat Nagar, Bathinda (PB).

....Applicants

VERSUS

1. Union of India through its Secretary, Human Resource Development under GOI, 302-C, Shastri Bhawan, New Delhi.
2. The Commissioner, KVS (HQRS), 18th Institutional Area, Shaheed Jeet Singh Marg, New Delhi.
3. Deputy Commissioner, KVS (RO), Sector 31-A, SCO 72-73, Chandigarh.

....Respondents

Present: None for the applicant
Mr. R.K. Sharma, counsel for the respondents

O R D E R

MRS. P.GOPINATH, MEMBER(A):-

This OA is filed seeking relief in respect of the father of the applicants for payment of ACP (senior scale) on completion of 12 years (w.e.f. 01.04.1990).

2. This OA is filed with a delay of 2600 days. Applicants have filed MA No. 060/1200/2017 for condonation of delay. In support of the delay, the applicants argue that they received Annexure A-15 dated 02/2012 and Annexure A-16 dated 07/03/2014 from two colleagues of their father

who were given the benefit as sought by the applicants in this OA in respect of their father.

3. The respondents admit the fact that the father of the applicants served for 13 years, 11 months and 26 days. Both applicants are family pensioners and the first applicant completed the majority age on 18.09.2009. Respondents also bring to notice that OA No. 537/2015 and OA No. 325/2015 had been filed by the applicants for other benefits. Smt. Kamlesh Bansal, wife of the deceased employee was alive upto 07.09.2004 and was granted the admissible dues. Though she was in the service of KVS, she did not raise the claim for grant of Senior Scale for her husband. Respondents attribute a delay of 8773 days in filing first OA on 17.04.2015 when the same was dismissed on grounds of delay. Further, as the above OA was dismissed on the grounds of being time-barred, liberty to file a fresh OA to revive the same cause of action would not arise, as limitation would bar the same.

4. Applicants had earlier filed OA No. 537 of 2015 which was disposed of with the following order on 13.01.2016:-

“12. For the reasons aforesaid, we find no merit in the instant OA, which is also hopelessly barred by limitation. There is no ground to condone the long and inordinate delay of more than two decades in filing the OA. Accordingly, MA No. 656/2015 and MA No. 1260/2015 for condonation of delay in filing the OA stand dismissed and consequently the OA also stands dismissed on merit as well as being barred by limitation.”

Hence the issue of delay with respect to the relief sought by the applicant had already been adjudicated and dismissed as being barred by limitation. The applicants are before us on the same plea again, hence, barred by the principle of res judicata in filing for the same relief again.

5. The wife of the deceased employee received the insurance cover amounting to Rs. 60,000 at the time of the death of the employee.

The said wife of the deceased employee remained alive for more than eleven years after the death of her husband. She was also serving in Kendriya Vidyalaya and hence, must have been well aware of the benefits accruing to her husband and she never made any such claim during her life span after the death of her husband.

6. Another OA No. 325 of 2015 was filed and decided on 20.10.2016 (Annexure A-19) in which interest on delayed payment of family pension was allowed to the applicant from the date when it became due till the actual date of payment at the rates admissible on GPF. Hence, the applicant was twice before this Tribunal and never raised this plea for grant of ACP. Further, even if it is assumed that they were made wise on account of Annexures A-15 and A-16 order of Senior Scale issued to the colleagues of the deceased employee, these were issued in 2012 and 2014 and hence, again barred by limitation because of delay of 2600 days. Further, these are senior scale promotion orders and applicant's prayer is for ACP.

7. Hence, this OA is barred by the Principle of Res Judicata, delay and Limitation. Both MA as well as OA are dismissed. No costs.

**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

**Dated: .01.2019.
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