

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**1. Misc. Application No.290/00169/2018
2. Misc. Application No.290/00170/2018
In Original Application No. 98/2012**

Jodhpur, this the 9th January, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Bhawani Singh S/o Shri Kuku Singh, aged about 34 years, resident of D.S. Colony, Near Medical College, Jodhpur, last employed on the post of Computer Operator, in the office of Commissioner of Income Tax-II, Jodhpur.

.....Applicant

By Advocate : Mr A.K. Kaushik.

Versus

1. Union of India, through the Revenue Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Principal Chief Commissioner of Income Tax, C R Building, Statute Circle, B.D. Road, Jaipur.
3. Pr. Commissioner of Income Tax-2, Paota C Road, Jodhpur.

.....Respondents

By Advocate : Mr. Sunil Bhandari.

Heard on Execution Application No. 290/00169/2018
alongwith MA No. 290/00170/2018 for condonation of delay filed
for execution of order dated 29.10.2012 passed by this Tribunal
directing respondents to re-engage daily wages/casual
employees qua the applicant.

2. OA No. 98/2012 was decided by this Tribunal alongwith several other OAs filed by other similarly situated persons, by a

common order dated 29.10.2012. The present execution application has been filed by the applicant as there is no grievance raised from others who joined together with applicant in OA No. 98/2012. In the present execution application, it is his submission that he was not allowed to join his work, mark his attendance and as such, he had not been taken on duty. Moreover, there is no reason mentioned by the respondents for not executing the order passed by this Tribunal. It is also his plea that similarly situated persons, who were also junior to him, were taken back on duty and are being continued in service by the respondents. It has been stated that he had preferred Contempt Petition No. 09/2014 before this Tribunal but the same was dismissed vide order dated 14.09.2017 on the ground of delay of more than one year. The applicant further states that though it was a fact but the order of this Tribunal gives rise to a recurring cause of action, therefore, law of limitation does not apply.

3. Though Mr A.K. Kaushik, learned counsel for the applicant vehemently argued the case, but it is clear from the reply of the respondents that the applicant had never turned up to join the duties in terms of order dated 29.10.2012 although he was never refused or denied permission to resume his duties. The respondents stated that it is for the first time applicant showed up when he filed his representation showing his attendance before

the respondents dated 22.10.2013 (Ann.MA/2). The respondents further stated that the Contempt Petition was filed by the applicant which was dismissed by this Tribunal on 14.09.2017 and thus, for the same cause of action, no execution application is maintainable. It is also submitted by the respondents that the present MA has been preferred by the applicant on 13.08.2018 against the order passed by this Tribunal on 29.10.2012, therefore, the same cannot be permitted in view of Section 27 read with Section 21 of the Administrative Tribunals Act, 1985. No valid reasons have also been given by the applicant in his MA for condonation of delay in filing the present execution application, therefore, by his own action and long lapse of time, which is more than 06 years, order dated 29.10.2012 becomes non-executable.

4. Having heard the counsels for the parties and going through the record, it is clear that this Tribunal in Bunch of OAs had decided the matters and order was passed on 29.10.2012 wherein the respondents were directed to continue these employees including the applicant to discharge their duties and that they may be allowed to mark their attendance till the outcome of the W.P. filed by the respondents before the Hon'ble High Court, Jodhpur. It is clear that most of the applicants in these Bunch OAs, decided on 29.10.2012, have joined the respondent-department except few including applicant who failed to join the respondent-

department within a reasonable time. It is also clear that this Tribunal has dismissed MAs for execution of order filed by the applicant in MA No. 104/2016 in OA 124/2012, MA No. 168/2016 in OA 191/14, MA No. 250/2016 in OA 12/2012 and MA No. 264/16 in OA 85/2012.

5. It is clear that the respondents cannot go to each and every applicant and ask them to join/accept the employment or not. Since, in the present case, the applicant himself has failed to join the respondents at the relevant period of time and now subsequently on 13.08.2018 by merely filing execution applicant alongwith condonation of delay where no grounds have been mentioned for delay in filing the present execution application, cannot seek direction to the respondents to take him back on duty/reinstate him. Therefore, there is no justification in the said execution application of the applicant for consideration.

6. Accordingly, as there is no justifiable grounds put forth by the applicant in the Misc. Application before this Tribunal for execution of order dated 29.10.2012 hence, the Misc. Application for execution of order is dismissed.

7. In view of the above, Misc. Application for condonation of delay is also dismissed.

**[Hina P. Shah]
Judicial Member**

Ss/-