

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, MUMBAI.

ORIGINAL APPLICATION No.388/2014

Dated this Wednesday, the 06<sup>th</sup> day of February, 2019

*CORAM: DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)  
R.N. SINGH, MEMBER (JUDICIAL)*

Shri S.G.Chaphalkar  
Retired as Chief Research Officer (CRO)  
Central Water and Power Research Station,  
Khadakwasla, Pune 411 024.  
R/at : 24 B, Vijayshri Co-op. Hsg Society  
New D.P. Road, Kothrud  
Pune 411 038. .... *Applicant*  
*(By Advocate Shri A.A. Deshpande)*

VERSUS

1. Union of India, Through the Secretary,  
Ministry of Water Resources,  
Shram Shakti Bhavan, Rafi Marg,  
New Delhi 110 001.
2. The Secretary, Union Public Service Commission,  
Dholpur House, Shahjahan Road, New Delhi 110 069.
3. The Director,  
Central Water and Power Research Station,  
Khadakwasla, Pune 411 024. .... *Respondents*

*(By Advocates Shri R.R. Shetty and Shri V.B. Joshi)*

O R D E R (ORAL)

*Per: R.N. Singh, Member (Judicial)*

The applicant who is stated to have  
retired as Chief Research Officer on  
attaining the age of superannuation on  
31.12.2010 from the services of the  
respondents has approached this Tribunal  
challenging the order dated 23.09.2009 (Annex

A-1), which reads as under :-

"F.No.4/2/2007-Extt.II  
Government of India,  
Ministry of Water Resources

Room No.422, Shram Shakti Bhavan, Rafi Marg,  
New Delhi, Dated the 23<sup>rd</sup> September, 2009

ORDER

*The President is pleased to appoint the following Chief Research Officers on promotion from the grade of Chief Research Officer (rs.15,600-39,100 + 7,600 Grade Pay) to the grade of Joint Director in the Pay Band/Scale of Rs.37,400-67,000 +8,700 Grade Pay under Flexible Complementing Scheme in Central Water & Power Research Station, Pune with effect from the date they actually assume the charge of the post, till further orders :-*

PANEL FOR THE YEAR 2005

Sl. No.	Name	Discipline
1	Shri R S Ramteke (SC)	Physics
2	Shri B Vijaykumar	Elects & Telecomm./Computer Engg.
3	Shri S Dhayalan (SC)	Elects & Telecomm./Computer Engg.

PANEL FOR THE YEAR 2007

Sl. No.	Name	Discipline
1	Shri R S Wadhawa	Physics
2	Shri R K Kamble (SC)	Physics
3	Shri M D Kudale	Civil Engineering (Fluvial; Hydraulics)

PANEL FOR THE YEAR 2008

Sl. No.	Name	Discipline
1	Dr. C. B. Singh (SC)	Mathematics

2. *The recommendations of the Board of Assessment will be subject to the final outcome of the Writ Petitions No.s6843/97, 6484/1997, 4554 of 2004 and 4559 of 2004.*

sd/-

(ANOOP SETH)

DEPUTY SECRETARY TO GOVT. OF INDIA

Tel No.23716747

To

The Director, CWPRS, Pune - 24.

Copy to :

1. Secretary, UPSC [Attention : Shri A V Tarvadi, US {AP-I} with reference to letter No.1/64(9)/2008-AP.I dated 21<sup>st</sup> August, 2009.
2. Pay & Accounts Officer, CWPRS, Pune - 24.
3. All above officers of CWPRS through Director, CWPRS, Pune.”

2. In the present OA, the applicant has sought the following reliefs :-

“8.1. To direct the Respondents to review the recommendations made by the Board of Assessment meeting dated 18.08.2009 to the effect leading to inclusion of the Applicant in the select panel followed by issuance of order of promotion in the grade of Joint Director with effect from the date of completion of five years regular service in the feeder grade of Chief Research Officer and consequential benefits.

8.2. To quash and set aside the O.O dated 23/09/2009 passed by MoWR as being passed without following due procedure and issue fresh order on the basis of reviewed recommendations.

8.3. To direct the Respondents for correctly calculating the vacancies taking into account year wise strength of complement in respect of the meeting of Board of assessment dated 18/8/2009 and for applying Bench Mark criteria while making year wise select panel at appropriate stage of selection process.

8.4. To direct the respondents to prepare a list of officers who met the prescribed qualifying standard in order of merit in respect of meeting of the Board of Assessment on 18/8/2009 and to draw a year wise select panel on the basis of this merit list.

8.5. This Hon'ble Tribunal may be pleased to grant any other relief to which Applicant may be entitled to and in this respect may pass any such order or

direction as deem fit.

8.6. *Cost of this application may be provided for."*

3. The applicant has filed this OA, along with MA No.616/2014 for seeking condonation of delay in filing of the OA. In the said MA, the applicant has not explained / mentioned as to delay of how many days or how many years. The only contention made in such MA is that the vacancies existed in the year 2009 as well as in the year 2010 and the applicant was hopeful of being considered for promotion by appearing before the Board of Assessment in the year 2010 i.e. before his impending retirement on attaining the age of superannuation on 31.12.2010. However, the respondents have failed to convene the meeting of the Board of Assessment in the whole 2010 and the applicant had to retire from the same post of Chief Research Officer without promotion despite having put in more than 11 years of service.

4. On the basis of assertion made in the MA, the learned counsel for the applicant further submits that the applicant could not

gather the relevant information other than the notified recruitment rules without the help of Right to Information Act and the first such information was obtained by the applicant on 01.04.2011, and on going through the same, the applicant felt that some procedural irregularities have taken place in the action of the respondents and he found that it is necessary to gather some more information. Thereafter, the learned counsel for the applicant submits that only in the second half of the year 2012, most of the information could be obtained by the applicant which led him to conclude that the respondents have committed serious procedural irregularities and then, he submitted two representations in the year 2012 and reminder in the year 2013.

5. On behalf of the applicant, it is further contended that in getting the requisite information from the UPSC also consumed lots of time and finally the applicant could gather all the information only in the year 2013 and, therefore, there has been delay in filing the present OA.

6. The respondents have filed reply and submit that as per the applicant's own contention he became eligible for further promotion in the year 2004. However, he has not raised any grievance till retirement and even with regard to the impugned order dated 23.09.2009, he himself submits that he did not challenge the same under the hope that the applicant's case shall be considered by the Board of Assessment in the year 2010. It is further contended on behalf of the respondents that if at all the applicant was eligible and was required to be considered for further promotion in the year 2004 and 2005, admittedly the cause of action had arisen to the applicant for the first time in the year 2004-2005 and not after 2009-2010.

7. The learned counsel for the respondents further submitted that the Writ Petition No.4558 of 2004 was decided on 27.03.2012 by the Hon'ble High Court of Bombay based on the order dated 14.11.2007 passed by the Hon'ble Apex Court in SLP 4973-74 of 2001, however, the same was restricted to the post of SRO / CRO and the respondents

have taken appropriate steps to implement the said order of Hon'ble High Court and it does not help the applicant either to bring out the OA within limitation or to seek condonation of delay.

8. It is further contended on behalf of the respondents that by way of present MA, the applicant has failed to show any sufficient and good ground to invoke the jurisdiction of the Tribunal for seeking condonation of delay and further rely upon the law laid down in the catena the cases of few of them are as under :-

"(i). *P.S. Sadasivawswamy V/S S/O Tamil Nadu Air 1974 SC 2271.*

(ii). *Jacob Abraham and others, A.T. Full Bench Judgments, 1994-96.*

(iii). *Ram Chandra Samanta V/S. UOI 1994 (26) ATC 228.*

(iv). *S.S.Rathore V/S S/O M.P. 1989 (2) ATC 521.*

(v). *Bhoop Singh V/S UOI IR 1992 SC 1414.*

(vi). *Secretary to Govt. of India V/S Shivaram M. Gaikwad (1995) 30 ATC 635 = 1995 (6) SLR (SC) 812.*

(vii). *Ex. Capt. Harish Uppal V/S UOI 1994 (2) SLJ 177.*

(viii). *L. Chandra Kumar V/S UOI 1997 (2) SLR (SC) 1.*

(ix). *AIR 199 SC 564 Dattaram V/S Union of India.*

(x). 1996 LLJ 1127 (SC) UOI V/S Bhagnoar Singh (1999) 8 SC 304 Ramesh Chand Sharma V/S Udhamb Singh Kamal & Ors.

(xi). 2002 (5) SLR (SC) 307 E. Parmasivan & Ors VS UOI & Ors. AT Act, 1985-Article 226-Writ Petition-Delay and latches-Maintainability of writ petition-Limitation-Application before Tribunal in 1995, by retired MES officers Retirement between 31-01-1974 to 31-05-1985, for fixation of pay in term of OM dated 12-1-1976. Tribunal right in dismissing applications on grounds of limitation."

9. It is the settled law that repeated representations will not explain the period of limitation. In this regard, we may rely on the law laid down in the Apex Court in S.S.Rathore (supra). Moreover, the present MA also appears to have been filed as a mere formality and the applicant has not taken pain to indicate as to what is the period for which the condonation is sought by the present MA. The applicant has also not brought on record any reason which may be construed as beyond the control of the applicant which has prevented the applicant to approach the Tribunal within the period of limitation. In this background, we do not find any merit in the MA and accordingly, the same is liable to be dismissed. We order accordingly.

**10.** In the OA also, it is found that by way of the present OA, the applicant has challenged the impugned order dated 23.09.2009 by which seven persons are appointed by the President to the grade of Joint Director and though the applicant has prayed for quashing and setting aside of such order but the applicant has not chosen to implead any of them even in representative capacity. The applicant has not chosen to take remedial actions in this regard even when this objection has been taken on behalf of the respondents.

**11.** In view of the aforesaid discussion, we find that OA is liable to be dismissed in view of the same being barred by limitation as well as not maintainable for not impleading necessary party. Accordingly, the OA is dismissed.

**12.** In the facts and circumstances, no orders as to costs.

**(R.N.Singh)**  
**Member (Judicial)**

**(Dr. Bhagwan Sahai)**  
**Member(Administrative)**

*kmg\**

*1w*

