

U/B

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

**OA No. 691/2014
MA No. 195/2015**

Dated this Thursday the 14th day of February, 2019

**Coram: Dr. Bhagwan Sahai, Member (Administrative).
R. N. Singh, Member (Judicial).**

1. Pradeep Kumar Shukla
S/o Shri Balkishan Shukla
Aged 44 years,
Working in Stores Section
In the office of Zonal Director
Mumbai Base of Fishery Survey of India
Sassoon Dock, Colaba,
Mumbai-400 001.
Resident of 106/979, Sector-I,
Kane Nagar,
Mumbai-400 037.

...Applicant.

(By Advocate Ms. Priyanka Mehndiratta).

Versus

1. The Union of India
Through the Secretary,
Ministry of Agriculture,
Department of Animal Husbandry,
Dairying and Fisheries Krishi
Bhawan, New Delhi-110 114.
2. The Director General
Fishery Survey of India,
Botawala Chambers,
Sir P.M.Road, Fort,
Mumbai-400 001.
3. The Zonal Director,
Mumbai Base of Fishery Survey
of India, Sassoon Dock,
Colaba, Mumbai-400 001.

... Respondents.

**(By Advocate Shri N. K. Rajpurhit alongwith Shri V.
B. Joshi).**

O R D E R (O R A L)
Per : R. N. Singh, Member (Judicial)

Present.

1. Ms. Priyanka Mehndiratta, learned counsel for the applicant.
2. Shri N. K. Rajpurohit along with Shri V. B. Joshi, learned counsels for the respondents.
3. The applicant has approached this Tribunal by way of the aforesaid OA on being aggrieved of inaction of the respondents in not granting of benefit of re-designation to the post of Senior Store Keeper despite the fact that the same has been implemented by the Ministry since 22.01.2009. In this regard, the learned counsel for the applicant invites our attention to the communication dated 15.09.2009 made by the respondent no.2 to the respondent no.1 (Annexure A-16) which reads as under:-

**"GOVERNMENT OF INDIA
FISHERY SURVEY OF INDIA
BOTAWALA CHAMBERS
MUMBAI-400 001.**

F.No.2-6/2007-E.1

Date: 15.09.09

To,
The Secretary to the
Govt. of India,
Ministry of Agriculture,
Dept. Of Animal Husbandry,
Dairying and Fisheries,
Krishi Bhavan,
NEW DELHI.

(KIND ATTN: MRS. SUDEEPA KOHLI, UNDER
SECREATRY)

Sub: Re-designation of \$ posts of
Accountant as Sr. Storekeeper-Reg.

Ref: Notification No.2-1/2001-Fy Admn
dtd.22.01.2009.

Sir,

I am directed to refer to the Notification cited and to inform that the willingness or otherwise of the Accountants to be posted as Sr. Storekeeper, in the order of seniority, have been called for. Accordingly, 3 accountants in the order of seniority have submitted their willingness to accept the post of Sr. Storekeeper subject to the condition that the post is upgraded allowing the Grade Pay of Rs.4600/-. The 4th Accountant in the seniority has communicated his unwillingness and therefore, the willingness of the Accountant next in the seniority has been obtained.

As recommended by the 6th CPC and accepted by the Government, this office had submitted a proposal for grant of the Grade Pay of Rs.4600/- with the Pay Band (PB-2) of Rs.9300-34800 to the post of Sr. Storekeeper vide this office letter No.3-5/2008-E.I dtd.20.04.2009 (copy enclosed for ready reference). It is required that the said proposal may kindly be examined and necessary orders allowing the Pay Band (PB-2) of Rs.9300-34800 + Grade Pay of Rs.4600/- to the post of Sr. Storekeeper issued at the earliest.

Yours faithfully,

(L.K.RAO)
SR.ADMINISTRATIVE OFFICER
FOR DIRECTOR GENERAL IN-CHARGE"

4. The learned counsel for the applicant

submits that for redressal of his grievance, the applicant has filed representations dated 14.01.2013 and also one dated 20.02.2014 (Annexures A-14 & A-15 respectively). However, no remedial action has been taken by the respondent. The applicant has also filed an MA No.195/2015 seeking condonation of delay in filing of the aforesaid OA. The applicant submits that there has been delay in filing of the present OA. However, from the aforesaid letters dated 20.04.2009 and 15.09.2009 (Annexure A-16) of the respondent no.2 to respondent no.1 and further from the fact that even in a meeting held in February, 2014 in Mumbai of all heads of office of the respondents it was discussed that re-designation of the post would be done soon, the applicant was under bonafide hope and belief that respondents are already in the process and therefore there was no occasion for the applicant to approach this Tribunal before the present OA was filed.

5. The learned counsel for the applicant further argues that, he is seeking re-designation of his post of Accountant as Senior Store Keeper as per the notification dated 22.01.2009, which has subsequently been merged with the post of Office Superintendent vide notification dated 31.05.2010 and therefore he could not approach this Tribunal.

Therefore this unintentional delay of about 3 years in filing of the present OA may be condoned. In response to the present OA and MA the respondents have filed their reply. They have also filed an additional reply.

6. The learned counsel for the respondents vehemently argues that the OA is barred by limitation. However, the learned counsel for the respondents does not dispute the fact that there has been the proposal from the respondent no.2 made to the respondent no.1 for re-designation and grant of appropriate pay scale vide his letter dated 20.04.2009 and 15.09.2009. It is also not disputed on behalf of the respondents that it was under consideration of the respondents. However, final decision in respect of the applicant could not be taken. Of course, it has been placed on record by way of an affidavit by the respondents that the applicant has been granted promotion to the post of Assistant Accounts Officer on regular basis w.e.f. 10.10.2018 at Mumbai but the fact remains that no decision has been taken in view of the proposal by the respondent no.2 vide their letter dated 15.09.2009 and in view of the deliberation made in the meeting held in February 2015, no final decision has been taken by the respondent no.1.

7. In the facts and circumstances as above, we are of the considered view that the MA seeking condonation delay deserved to be allowed and accordingly the same is allowed. However, once a representation of the applicant with the proposal of the respondent no.2 referred to herein above are said to be pending consideration of the Competent Authority we are not going into the claim of the applicant in the OA.

8. Accordingly, we dispose of the OA with directions to the respondent no.1 to consider the claim of the applicant and dispose of the same by passing a reasoned and speaking order within 10 weeks from the date of receipt of a certified copy of this order.

9. In the aforesaid terms, the OA is disposed of. No order as to costs.

(R. N. Singh)
Member (J)

V.

1/13
) Judgment
Y

(Dr. Bhagwan Sahai)
Member (A)