

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00148/16**

Date of Order: 15/05/2019

C O R A M
HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Smt. Poonam, wife of Shri Manoj Kumar Choudhary, Resident of Village- Rahua Apuchha, PS- Masahari, District- Muzaffarpur presently posted as PRT, IInd Shift, Kendriya Vidyalaya, Muzaffarpur.

.... Applicant.

By Advocate: - Mr. Rajesh Kumar

-Versus-

1. The Union of India, through the Commissioner, KVS (HQ), New Delhi-110602.
2. Assistant Commissioner (Regional Office), PO- Lohia Nagar, Kankarbagh, Patna- 800020.
3. Deputy Commissioner (Regional Office), PO- Lohia Nagar, Kankarbagh, Patna-800020.
4. Audit and Accounts Officer, KVS (RO), Patna.
5. Principal, Kendriya Vidyalaya, Muzaffarpur.

.... Respondents.

By Advocate: - Mr. G.K. Agarwal

O R D E R
[ORAL]

Per Dinesh Sharma, A.M:- This OA is against the respondents' order No. F28036/(Grievance) 2015-KVS P.S./11968 dated 12/15.01.2016 (Annexure-A/7). By this order, the respondents rejected the request of the applicant to consider her option about fixing the pay on promotion from the date of next increment, as being time barred and being against Rule-22 GIO (16). The applicant has requested for directing the respondents for pay fixation on the basis of option given (i.e. 01.01.2006 in place of 01.11.2005). The

applicant has alleged that this relief is covered under the order passed by this Tribunal in OA 568/2011 (Nandjee Singh Vs. UOI, dated 12.03.2015).

2. The respondents have filed their written statement in which, amongst other things, they have pointed out that this OA is barred by limitation. The applicant's pay was fixed in the year 2007 and the applicant has never assailed the validity thereof in all these years by approaching the Tribunal. Thus, the application is barred by Section-21 of the AT Act, 1985.

3. We have gone through the pleadings and heard the arguments of the learned counsels of both the sides. We find that the decision by this Tribunal in OA No. 568/2011 dated 12.03.2015 squarely covers the issues raised in this OA. However, the fact remains that the applicant, though similarly placed, did not question the said fixation either when it was done or even in the year 2011 when an other person, similarly affected approached this Tribunal. The applicant has apparently acted as a fence-sitter and has approached this Tribunal after knowing the outcome of the above-mentioned OA. She has not given any reason for the delayed filing of this OA, nor has she filed any petition for the condonation of delay even after the respondents raising this issue in their W.S. In the above-mentioned decision (OA 568/2011), this Tribunal had found that the delayed filing of option, when such option was not sought in the promotion order, could not be rejected as time barred. This decision does not entitle any person to claim relief from this Tribunal at any length of time after such delayed filing of option, without explaining the reason for such delay. It may be true that she had raised this issue through a representation in the year 2007 itself

and might have been pursuing it since then, the fact remains that she did not get any positive response. The impugned order (Annexure A/7) does not amount to creating a new cause of action. It is by way of informing a fact in response to the applicant's request for pay parity along with other allegedly similarly placed employee (a crude attempt to evergreen/bypass the law regarding period of limitation). For all these reasons, we find that the OA is definitely barred by period of limitation prescribed in Section 21 of the AT Act, 1985 and accordingly it is dismissed. No order as to costs.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member