

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

O.A. No.2047 of 2017

&

M.A. NO.2238 of 2017

Orders reserved on : 05.03.2019

Orders pronounced on : 12.03.2019

**Hon'ble Ms. Nita Chowdhury, Member (A)**

**Hon'ble Mr. S.N. Terdal, Member (J)**

Roop Narain aged 50 yrs Group 'd'  
s/o Sh. Radha Kishan  
R/o Ayyapur (Kirwada) P.O Paharia Nagar Kirwada  
Tehsil Todabhim  
District Karauli (Rajasthan)

Delhi address:

C/o RAJENDER MEENA  
J. A-52 II Floor,  
Pul Pahladpur, New Delhi.

....Applicant

(By Advocate : Shri S.P. Sethi)

VERSUS

Union of India through

1. The General Manager,  
Northern Railway, Baroda House,  
New Delhi-110001.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi-55.

.....Respondents

(By Advocate : Shri Shailendra Tiwari)

**ORDER**

**Ms. Nita Chowdhury, Member (A):**

By filing this OA, the applicant is seeking the following  
reliefs:-

- “i) That this Hon’ble Tribunal may graciously be pleased to pass an order directing the respondent No.2 to produce the record of selection of Group ‘D’ on the basis of which notice dated 9.10.1987 has been notified.
- ii) That this Hon’ble Tribunal may graciously be pleased to pass an order directing the respondent No.2 to produce all the relevant record pertaining to service of Sh. Roop Lal Meena (original name Sh. Hargun) s/o Sh. Shiv Lal Meena.
- iii) That this Hon’ble Tribunal may graciously be pleased to pass an order directing respondent No.2 to produce the application of the applicant and all other relevant record including the documents pertaining to education castes etc.,
- iv) That this Hon’ble Tribunal may graciously be pleased to direct the respondents to consider the applicant for appointment against Group ‘D’ post and whole period from the date of appointment of Sh. Roop Narain Meena (Hargun original name) s/o Sh. Shiv Lal Meena working as Ambulance Cleaner till the appointment of applicant may be treated as Qualifying service for pensionary benefits and seniority with further consequential benefits accrued thereon.
- v) Any other relief which this Hon’ble Tribunal deem fit and proper may also be granted to the applicant along with cost of litigation etc.,”

2. Since there is admittedly a delay of 27 years and 8 months in filing the OA, the applicant has also filed Misc. Application (MA No.2238/2017) seeking condonation of delay in filing the OA stating therein that he had applied for the post of Group ‘D’ in Delhi Division in the year 1987. Applicant further stated that he did not receive any appointment letter and on enquiry from the office of respondents, he was verbally told that he did not find place in the panel. However, about a

year back, he came to know that one Sh. Hargun Meena impersonating as Roop Narain Meena got the record manipulated and got appointment in his place and the said Hargun Meena has been serving in his place since 1989 and therefore, he approached the respondent no.2 to know about the facts but he was denied access to any record. Thereafter he submitted his application under RTI Act seeking information in this regard but no response was given to him. The applicant submitted representation dated 9.11.2016 and legal notice dated 9.11.2016. He also stated about the health conditions of his parents. Therefore, he prayed that the delay of 27 years and 8 months may kindly be condoned in the interest of justice.

3. The grievance of the applicant in this case is against non-consideration of his application dated 9.11.2016 followed by legal notice dated 9.11.2016, which relates to recruitment in Group 'D' post held in 1987 and according to the applicant he was declared successful in the said selection but he did not receive any appointment letter but of late he came to know that one Shri Hargun s/o Shri Shiv Lal Meena managed to obtain the appointment letter of the applicant by impersonating himself as Roop Narain and is working as Ambulance Cleaner under Medical Superintendent, N. Rly. Health Unit, Delhi Kishanganj. The applicant represented

as well as made police complaint in 2016 raising his grievance.

4. The respondents have also filed their reply in which they have stated that applicant submitted a complaint on 28.7.2016 against one Shri Roop Narayan Meena S/o Sh. Shiv Lal Meena, Hospital Attendant under ACMS/DKZ and stated that he is doing service in duplicate name at Delhi Kishan Ganj medical dispensary. Accordingly, a letter to the concerned Branch office was forwarded for submission of identity proof of Shri Roop Narayan Meena s/o Sh. Shiv Lal Meena, Hospital Attendant working under ACMS/DKZ and Railway Identity card Number of Shri Roop Narayan Meena s/o Shri Shiv Lal Meena is 37867.

4.1 They further submitted that the applicant has also filed a complaint in vigilance department for the same and in reference to this, a letter has been received from Vigilance Department vide L.No.Vig/Ct/2016/08/01479/V2 dated 4.11.2016. In this regard, Vigilance Department asked some documents of Shri Roop Narayan Meena S/o Sh. Shiv Lal Meena, KA/CMS/DU i.e. personnel file, medical memo issued to employee at the time of appointment and service book and the same has been provided to them vide office letter No.730-E/2/391/P-10 dated 30.11.2016 and 20.1.2017 and as per Vigilance Department's letter No.Vig.CT/2015/12/00749/V2 dated 9.1.2017, an enquiry in the mentioned case was held

on 7.3.2017 and the same has been attended by the concerned dealer and Ch. Office Superintendent of the concerned Branch.

4.2 They further stated that later on a letter has been received from Police Thana Karauli through single window Cell for attested photocopy of service book of Shri Roop Narain Meena S/o Sh. Shiv Lal Meena, HA/ACMS/DKZ in reference to a complaint received in Police Thana Karuail against him filed by applicant regarding doing service on duplicate name at Delhi Kishan Ganj Hospital Dispensary. One Shri Samunder Singh S/o Sh. Maharaj Singh from Rajasthan Police has received the photo state copy of service record of Sh. Roop Narayan Meena S/o Sh. Shiv Lal Meena, HA under ACMS/DKS from the respondents' office vide letter dated 23.12.2016 and 16.5.2017.

4.3 The respondents have also raised preliminary objection of limitation in this case.

4.4 They categorically stated that as per the Transfer Certificate of 8<sup>th</sup> Class, offer of appointment letter, Medical Memo issued at the time of appointment and in appointment letter, name of the candidature is mentioned as Shri Roop Narayan Meena S/o Shri Shiv Lal Meena. They further stated that applicant was replied vide letter dated 28.6.2016 and accordingly the applicant with his son attended the office of

Divisional Railway Manager and seen the available records by himself.

4.5 They further stated that as per the documents provided by the applicant with his complaint, it is noticed that his date of birth on his 8<sup>th</sup> class certificate as 1.7.1967, i.e., he was approx. 20 years old when he passed 8<sup>th</sup> class and as per his Aadhar Card, his date of birth is 1.1.1970, i.e., he was approx. 17 years and 09 months old when the Group 'D' panel of Railway, i.e. on 9.1.1987 had been issued.

4.6 Lastly they submitted that in view of the aforesaid submissions the present case may be decided by this Tribunal accordingly and the applicant is not entitled to relief claimed by him in the present OA.

5. The applicant has also filed his rejoinder in which he reiterated the averments made in the OA and denied the contents of the reply filed by the respondents. In his rejoinder, the applicant has referred to a report submitted by SHO Police Station Shri Mahavirji and averred that in the investigation conducted by the Police and accepted by Judicial Magistrate, Shri Mahavir Ji Distt. Karauli that the offence against shri Hargun Meena has been established under Section 420, 467, 468 and 471 IPC, however, the case is being returned by Paharganj Police Station on the plea that the offence has been committed under the jurisdiction of Police Station Mahavir Ji, therefore, there is apprehension

that the matter may be further proceeded there. Applicant further submitted that TC No.567 does not belong to Hargun Meena but one Sh. Prahlad Kumar Meena issued by the School. Moreover, affidavits sworn in by two residents of Village Danalpur are annexed to prove that the man named as Roop Narain Meena is not in fact Roop Narain Meena but Hargun Meena.

6. We have heard learned counsel for the parties and perused the material placed on record.

7. Before going into the merit of the case, this Court feels appropriate first to adjudicate the issue of limitation. This Court observes that this Tribunal is governed by the Administrative Tribunals Act, 1985, Section 21 of the Administrative Act, *ibid*, clearly provides as under:-

“21. Limitation –

- (1) A Tribunal shall not admit an application, -
  - (a) in a case where a final order such as is mentioned in clause (a) of subsection (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
  - (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where –

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or , as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section(2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

7.1 The Apex Court as well as Hon’ble High Courts while dealing with this issue of limitation and also on the point of delay condonation passed various orders as enumerated below:-

- (a) The Hon’ble Apex Court in **D.C.S. Negi v. Union of India & others** (Civil Appeal No.7956 of 2011) decided on 7.3.2011, condemned entertaining of the OAs by the Tribunal



in disregard of the limitation prescribed under Section 21 of the Administrative Tribunals Act 1985. In the said order, following observations were made:

“Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the Applications filed under Section 19 of the Act in complete disregard of the mandate of Section 21. ....

Since Section 21 (1) IS COUCHED IN NEGATIVE FORM, IT IS THE DUTY OF THE Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under section 21 (3).”

(b) The Apex Court in the case of **S.S. Rathore v. State of Madhya Pradesh**, (1989) 4 SCC 582. In the said case, the Hon’ble Supreme Court has held thus:-

“We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle. It is appropriate to notice the provision regarding limitation under s. 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the

application and power of condonation of delay of a total period of six months has been vested under sub- section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article' 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.

It is proper that the position in such cases should be uniform. Therefore, in every such case only when the appeal or representation provided by law is disposed of, cause of action shall first accrue and where such order is not made, on the expiry of six months from the date when the appeal was-filed or representation was made, the right to sue shall first accrue.”

(c) In **Chennai Metropolitan Water Supply and Sewerage Board & Ors. Vs. T.T. Murali Babu**, (2014) 4

SCC 108, the Apex Court has been ruled thus:

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the *lis* at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the *lis*”.

(d) **“In A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala and others**, (2007) 2 SCC 725 following the earlier judgment in **U. P. Jal Nigam's case**, it was opined as under:

"40. The benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of this court. If it is found that the appellant approached the Court after a long delay, the same may disentitle him to obtain a discretionary relief."

(e) In the case of **State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others**, 2013(6) SLR 629, Hon'ble the Supreme Court, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, opined that repeated representations made will not keep the issues alive. A stale or a dead issue/dispute cannot be got revived even if such a representation has either been decided by the authority or got decided by getting a direction from the court as the issue regarding delay and laches is to be decided with reference to original cause of action and not with reference to any such order passed. Relevant paragraphs from the aforesaid judgment are extracted below:

"13. We have no trace of doubt that the respondents could have challenged the ad hoc promotion conferred on the junior employee at the relevant time. They chose not to do so for six years and the junior employee held

the promotional post for six years till regular promotion took place. The submission of the learned counsel for the respondents is that they had given representations at the relevant time but the same fell in deaf ears. It is interesting to note that when the regular selection took place, they accepted the position solely because the seniority was maintained and, thereafter, they knocked at the doors of the tribunal only in 2003. It is clear as noon day that the cause of action had arisen for assailing the order when the junior employee was promoted on ad hoc basis on 15.11.1983. In C. Jacob v. Director of Geology and Mining and another[1], a two-Judge Bench was dealing with the concept of representations and the directions issued by the court or tribunal to consider the representations and the challenge to the said rejection thereafter. In that context, the court has expressed thus: -

“Every representation to the Government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representations unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representations with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot furnish a fresh cause of action or revive a stale or dead claim.”

14. In Union of India and others v. M.K. Sarkar[2], this Court, after referring to C. Jacob (supra) has ruled that when a belated representation in regard to a “stale” or “dead” issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the “dead” issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court’s direction. Neither a court’s direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

15. From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for

consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action.

The dead cause of action cannot rise like a phoenix. Similarly, a mere submission of representation to the competent authority does not arrest time. In Karnataka Power Corpn. Ltd. through its Chairman & Managing Director v. K. Thangappan and another[3], the Court took note of the factual position and laid down that when nearly for two decades the respondent-workmen therein had remained silent mere making of representations could not justify a belated approach.

16. In State of Orissa v. Pyarimohan Samantaray[4] it has been opined that making of repeated representations is not a satisfactory explanation of delay. The said principle was reiterated in State of Orissa v. Arun Kumar Patnaik[5].

17. In Bharat Sanchar Nigam Limited v. Ghanshyam Dass (2) and others[6], a three-Judge Bench of this Court reiterated the principle stated in Jagdish Lal v. State of Haryana[7] and proceeded to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

18. In State of T.N. v. Seshachalam[8], this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

“....filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

7.2 In the light of the above said legal position of the various High Courts, especially in the case of ***Hariom*** (supra),

and Apex Court as also having regard to the provisions of the Act *ibid*, it is clear that in order to get the benefit of limitation, the application has to satisfy this Tribunal that he was diligently pursuing his matter and was prevented by sufficient cause for not filing the OA within the period of limitation. Admittedly, the applicant in this case is seeking directions to the respondents to consider his case for appointment against Group 'D' post and whole period from the date of appointment of Sh. Roop Narain Meena (Hargun original name) s/o Sh. Shiv Lal Meena working as Ambulance Cleaner till the appointment of applicant may be treated as Qualifying service for pensionary benefits and seniority with further consequential benefits accrued thereon. The said Roop Narain Meena was appointed on 11.11.1989 on the basis of letter dated 26.10.1989 and panel merit No.289 and from the applicant's averments, it is clear that he has not taken any action at the relevant time with regard to status of his candidature for the said post and has filed complaint and representation only in 2016 alleging the aforesaid allegations, which was enquired by the respondent's vigilance department. This belated action of the applicant in this matter does not give him any fresh cause of action even if it is presumed that the applicant's aforesaid contention is true. The action will be taken in the matter in accordance with law, if such allegation is found to be correct by the appropriate

Court having jurisdiction to adjudicate this issue, as according to the averments of the applicant, the matter is still pending in appropriate learned court. Mere fact that applicant came to know about the alleged irregularities in the said appointment process which was held in 1987 and the said alleged Roop Narain Meena was appointed in 1989, in the year 2016 and the present OA filed on 26.5.2017. Such an inordinate delay of 27 years of 8 months and the grounds raised in support of condonation of delay, there is no averment, which proves that he was diligently pursuing his matter and was prevented by sufficient cause for not filing the OA. Admittedly, the applicant has taken action to file the OA in the matter only in 2017 and there is no explanation whatsoever for the delays with regard to the period of 27 years and 8 months.

8. In the result, and for the foregoing reasons, MA 2238/2017 is dismissed being devoid of merit and consequently, the OA is also dismissed as barred by limitation. There shall be no order as to costs.

**(S.N. Terdal)**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

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