*Reserved*

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

**Original Application No. 330/00140/2015**

Dated: This the 05th day of September 2019.

**HON'BLE MR. RAKESH SAGAR JAIN, JUDICIAL MEMBER**

Pradeep Saxena S/o Shri Shyam Mohan Saxena, R/o 18/4 Karelabag Colony, Allahabad.

..... Applicant

By Advocate: Shri S.K. Singh Vashisth

Versus

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Assistant Personal Officer for General Manager (P) Central Organization Railway Electrification N.C.R., Allahabad.

.....Respondents

By Advocate: Shri Rishi Kumar

**ORDER**

1. The present Original Application has been filed by the applicant -Pradeep Saxena under section 19 of Administrative Tribunals Act, 1985 seeking following reliefs:-

   "(a) Issue an order or direction to the quashing the impugned order dated 5/6.02.2013 passed by respondent No.3.

   (b) Issue an order or direction to the respondent to consider the applicant for compassionate appointment in place of his sister Late Km. Ekta Saxena and give other consequential benefit which become due when and month to month in future.

   (c) Issue an order or direction which the Hon'ble Tribunal may deem fit and proper in the interest of justice.

   (d) Award cost in the favour of the applicant".

2. Case of applicant Pradeep Saxena is that on the death of his sister Ekta Saxena on 05.11.2000 while working in the respondent Department (Railways), applicant filed an application for appointment on

compassionate grounds since he along with his parents were dependent upon deceased Ekta Saxena and which application was rejected by respondent No. 2 vide order dated 25.01.2005. The said order dated 25.01.2005 was set aside by the Tribunal in O.A. No. 941/2005 vide order dated 11.04.2008 and respondent No. 2 was directed to reconsider the matter and dispose of the same by a reasoned and speaking order. The applicant submitted the order dated 11.04.2008 and representation dated 01.05.2008 to the respondent No. 2. It is the further case of applicant that respondents rejected his application vide impugned order dated 5/6.02.2014 which is a unreasoned and non-speaking order and deserves to be set aside. The impugned order dated 5/6.02.2014 reads as below

"Central Organization for Railway Electrification

Headquarters Office, Allahabad

(Personnel Branch)

No. 729-E/RE/Settle-14 (Pt I) Dated: 06.02.2014.

Shri Pradeep Saxena

18/4, Karelabagh Colony

Allahabad 211016.

Sub: Appointment of Shri Pradeep Saxena, brother of late Ekta Saxena on compassionate grounds.

Ref: (I) Your representation dated 20.09.2013.

(II) Railway Board's letter No. E (NG) II/2013/RC-I/CORE/21 dated 7.1.2014.

Based on your request contained in your letter quoted under reference (I) above, the above matter was referred to the Railway Board for necessary decision in the matter. It has been considered there. Consequently, they have given the following decision vide their letter quoted under reference (II) above.

The case of Shri Pradeep Saxena, brother of Late Kumari Ekta Saxena,, for appointment on compassionate grounds received vide above referred letter has been examined in Board's office. It is affirmed that stand taken by CORE is in line with the policy of appointment on compassionate grounds and accordingly, the instant case is not feasible for appointment on compassionate grounds.

In the light of this decision, this matter stand closed".

3. In their counter affidavit, respondents have taken the stand that the applicant failed to show his dependency upon the deceased sister Ekta Saxena since father of applicant and deceased is an employee of Kamla Nehru Hospital, Allahabad having a salary. Reference may be paragraph No. 11 and 12 of the CA counter affidavit that:

> "11. That as per direction of the Hon'ble Tribunal in O.A No. 941 of 2005, dated 11.04.2008 (Annexure No. A-5 page 21 of the O.A.) to establish the dependency of Sri Pradeep Saxena/applicant on his sister Late Km. Ekta Saxena as claimed by him, the Welfare Inspector was deputed to enquire into the matter, who has submitted the detail report dated 30.06.2008, mentioning that the father and mother of Km. Ekta Saxena are alive. In such situation there is no question of dependency of applicant on his sister Late Km. Ekta Saxena. A true copy of the Welfare Inspector Report dated 30.06.2008 is being filed herewith and marked as Annexure No. CR-1 to this counter reply.
>
> 12. That further after getting the report of the Welfare Inspector, in compliance of the Hon'ble Tribunal order dated 11.04.2008 in O.A. No. 941 of 2005, General Manager (P)/CORE/Allahabad has passed reasoned and speaking order, vide letter No. 729-E/RE/Settle-14 dated 07.07.2008, where all aspect regarding granting compassionate appointment to the applicant, his dependency and Welfare Inspector Report has been considered in detail and communicated to the applicant. A true copy of the speaking and reasoned order dated 07.07.2008 of General Manager (P)/CORE Allahabad is being filed herewith and marked as Annexure CR-2 to this counter reply".

4. The respondents have further taken the objection in paragraph No. 12 of the counter affidavit that the applicant has not challenged the order dated 7.7.2008 whereby his application for compassionate appointment was rejected and therefore the present O.A. is barred by period of limitation. It be noted that this averment of the respondents has not been challenged or rebutted by the applicant in his rejoinder affidavit. The order dated 07.07.2008 (Annexure CR-2) reads as under:

> "Ekkuuh; dUnh; i'kklfud vf/kdj.k] cp bykgkcknd le{k vk- ,- u0 941 o"k 2005 Jh inhi lDluk cuke ;fu;u vkQ bf.M;k oxjg d ey okn d vUrxr vkid

dFkuku lkj d0 ,drk lDluk vfookfgr i=h Jh ';ke ekgu lDluk dh fu;fDr fnukd 28-11-1997 dk LVuk d in ij gb Fkh ,o vfookfgr jgr g;s fnukd 05-11-2000 dk mudh eR;q gk xbA Lo0 ,drk lDluk d vk; ij gh vkidh ek ,o vki i.k :lk.k vkfJr FkA ikl d fy;s d0 ,drk lDluk }kjk fn;s x;s ikouk d fy;s vkiu mRrjkf/kdkj iek.k i= U;k;ky; }kjk ikIr fd;k vkj mlh vk/kkj ij lHkh n; ikouk dk ikIr fd;kA bl idkj ,drk lDluk d mij vkfJr gku ,o mUgs n; Hkxrku dk mRrjkf/kdkj iek.k i= d ekQr ikIr dju d vk/kkj ij vuqEik d vk/kkj ij fu;fDr d fy;s vkonu i= fn;k] tk bl dk;ky; d i= fnukd 25-01-2005 d vuqlkj vLohdr fd;k x;kA vkiu viu ey okn e jyo }kjk tkjh ifji= (RRE 165/1999) dk e[; vk/kkj ekuk g ftle dgk x;k g fd deh d vkfJr gku d fy;s ikl fu;e d vUrxZr ?kks"k.k i= d vkHkko e deh d i{k e tkjh jk'ku dkM ;k fgr fujh{kd }kjk lR;rk tkp d vk/kkj ij Hkh vfJr gku d igpkj fd;k tk ldrk gA

Ekkuuh; U;k;ky; d Qlyk fnukd 11-4-2008 d vuqlkj ifroknh x.k dk ;g funs'k fn;k x;k g fd vkid }kjk iLrqr ikFkuk i=] jyo }kjk tkjh ifji=k d vk/kkj ij ldkj.k ,o rdhi.k fu.k; tkjh djA

bl lUnHk e U;k;ky; d Qlyk fnukd 11-4-2008 ,o vkid u; vkonu i= fnukd 01-5-2008 rFkk jyo }kjk le; le; ij tkjh ifji=k d v/;;u lk'pkr cxj fdlh iokxg d ,o lgkuHkfr iod fopkj djr g;s ifroknh }kjk fu.k; fd;k tkrk g fd%&

erd deh }kjk ikl fu;e d vUrxZr ikfjokfjd ?kks"k.kk e Jh inhi lDluk ¼Hkkb½ dk uke vfdr ugh gA vr,o ikl fu;e d vuqlkj Jh inhi lDluk erd d0 ,drk lDluk d vkfJr Hkkb ugh gA

mRrjkf/kdkjh gkuk vkfJr gku l fcYdy fHkUu gA ,d /kuk<; 0;fDr ;k /ku miktu dju okyk fj'rnkj Hkh mRrjkf/kdkjh gk ldrk gA tcfd erd d vk; ij vkfJr gkuk ,d vyx igy g] blfy;s erd ,drk lDluk dk n; lekiu Hkxrku dk mRrkjf/kdkjh iek.k i= d vk/kkj ij ikIr dj yu ek= l gh ;g lkfcr ugh gkrk g fd Jh inhi lDluk erd ,drk lDluk d vkfJr FkA

l{ke vf/kdkjh] {k=h; [kk?k vf/kdkjh i[k.M 2] bykgkckn }kjk tkjh iek.k i=k ,o fgr fujh{kd }kjk vki ykxk l fy;s x;s c;ku l ;g Li"V gkrk g fd ,drk lDluk ;k mudh firk d uke l jk'ku dkM tkjh ugh gvk gA bl idkj jk'ku dkM d vkHkko e Hkh Jh inhi lDluk dk ,drk lDluk d vkfJr gku d lEcU/k e fu.k; ugh fy;k tk ldrkA

rRi'pkr e[; fgr fujh{kd dk lR;rk tkp d fy;s fu;Dr fd;k x;k ftld vUrxZr Jh inhi lDluk] mudh ek Jherh 'k'kh lDluk] firk Jh ';ke ekgu lDluk iMkl lo Jh vuqie lkCrh i= Jh ,l0 ,e0 lkCrh 18@10 djykckx dkykuh] bykgkckn ,o Jh txUukFk iklkn i= Jh ekfud yky] 18@3] djykckx dkykuh] bykgkckn d 0;fDrxr lk{kkRdkj fd;s x;s vkj mudk c;ku nt fd;s x;A bu c;kuksa l Li"V gkrk g fd Jh inhi lDluk d firk Jh ';ke ekgu lDluk v'kDr ¼Invalid½ ugh g cfYd o deyk ug: vLirky] bykgkckn e fyfid d in ij dk;jr g vkj mudh oru :5600@& ifr ekg gA mijkDr lHkh u dgk g fd Jh ';ke ekgu lDluk ¼firk½ Jh inhi lDluk ,o mudh ek l vyx jgr g gkykfd o ykx ,d gh edku e jgr gA Jh ';ke ekgu lDluk ¼firk½ Jh inhi lDluk ,o mudh ek dk fdlh idkj dh vkfFkd lgk;rk ugh djr gA Jh ';ke ekgu lDluk oruHkkxh g ifjokj dh n[kHkky djuk ;k u djuk mudh ikfjokfjd leL;k gA bld vykok lDl'ku dk u0 99 o"k 2001 e inhi lDluk oknh ,o ';ke ekgu lDluk ifroknh gA bl dk e ifroknh ¼firk½ }kjk fdlh idkj dh vkifRr ugh djuk ,o --- vk/kkj ij inhi lDluk }kjk :0 1]06]317@& ikIr djuk bl ckr dk ?kkrd g fd Jh inhi lDluk }kjk ;g dFku fd mudk firk Jh ';ke ekgu lDluk mudh vkfFkd lgk;rk ugh djr g D;kfd mudk lEcU/k vPNk ugh g vlR; g ,o ;g i.k'r% feF;k lkfcr gkrk gA

bl idkj fgr fujh{kd d fjikV l Hkh ;g Kkr gkrk g fd Jh inhi lDluk Lo0 ,drk lDluk d vkfJr Hkkb ugh FkA

vr% Jh inhi lDluk i= Jh ';ke ekgu lDluk Lo0 d0 ,drk lDluk d ,ot e vuqEik d vk/kkj ij fu;fDr iku dk vf/kdkj ugh gA

lpukFk if"krA

;g l{ke vf/kdkjh ¼ifroknh 2½ }kjk vuekfnr g

¼feJh yky½
Okfj"B dkfeZd vf/kdkjh ¼Dyks-½
dr egkiC/kd ¼dkfeZd½
dkj@bykgkckn".

5. Heard and considered the arguments of the learned counsel for the parties and gone through their pleadings. The question of delay in filing the O.A. raised by the respondents in their counter affidavit is being taken up in the first instance.

6. It is the case of respondents that the O.A. is patently and highly time barred, as per, Section 21 of the Administrative Tribunal Act and deserves to be dismissed. It has been argued by learned counsel for respondents that the cause of action accrued to the applicant on 7.7.2008 when his application for compassionate appointment was rejected but he choose to file the present O.A. in the year 2015 nearly 7 years after the cause of action. Even, though the applicant filed a representation in the year 2013, upon which, the applicant was informed vide impugned order dated 5.2.2014 that the stand of the CORE is in accordance with Scheme for compassionate appointment and so, the filing of the representations does not extend the cause of action or the period of limitation regarding order dated 7.7.2008. The O.A. being hit by period of limitation is to be dismissed.

7. On the other hand, learned counsel for applicant submitted that he has sought direction for reconsideration of his case vide representation filed in 2013, upon which impugned order dated 5.2.2014, therefore, the O.A. is within the period of limitation and cannot be dismissed as being barred by period of limitation.

8. In so far as Central Administrative Tribunal Act 1985 which governs the case of the applicant herein, Section 21 of the Act specifies limitation period. Section 21 reads as under:

> "(1) A Tribunal shall not admit an application,—
> (a) in a case where a final order such as is mentioned in clause (a) of sub-section (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 subsection (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 they had sufficient cause for not making the application within such period".

9. A reading of the said section would indicate that sub-section (1) of Section 21 provides for limitation for redressal of the grievances in clauses (a) and (b) and specifies the period of one year. Sub-section (2) amplifies the limitation of one year in respect of grievances covered under clauses (a) and (b) and an outer limit of six months in respect of grievances covered by sub-section (2) is provided. Sub-section (3) postulates that notwithstanding anything contained in sub-section (1) or sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period enumerated in sub-sections (1) and (2) from the date of application, the Tribunal has been given power to condone the delay, on satisfying itself that the applicant has satisfactorily explained the delay in filing the application for redressal of their grievances. When subsection (2) has given power for making applications within one year of the grievances covered under clauses (a) and (b) of subsection (1) and within the outer limit of six months in respect of the grievances covered under sub-section (2), there is no need for the applicant to give any explanation to the delay having occurred during that period. He is entitled, as a matter of right, to invoke the jurisdiction of the court for redressal of his grievances. If the application come to be filed beyond that period, then the need to give satisfactory explanation

for the delay caused till date of filing of the application must be given and then the question of satisfaction of the Tribunal in that behalf would arise. Sub-section (3) starts with a non obstante clause which rubs out the effect of sub-section (2) of Section 21 and the need thereby arises to give satisfactory explanation for the delay which occasioned after the expiry of the period prescribed in sub-sections (1) and (2) thereof.

10. On the question of delay and bar of limitation, reference may be made to the decisions of the Hon'ble Apex Court in the following cases:-

A. Esha Bhattachargee Vs. Managing Committee of Raghunathpur Nafar Academy and Others, (2013) 12 SCC 649, after discussing the entire case law on the point of condonation of delay, the Hon'ble Apex Court has culled out certain principles as under:-

"21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact- situation.

21.3. Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

21.12. The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

21.13. The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are: -

22.1.An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2. An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.3. Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

22.4. The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a

non-challant manner requires to be curbed, of course, within legal parameters".

B. In Chennai Metropolitan Water Supply and Sewarage Board and Others Vs. T.T. Murali Babu (2014) 4 SCC 108, it was held by the Hon'ble Apex Court as under:-

"13. First, we shall deal with the facet of delay. In Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati and others[AIR 1969 SC 329] the Court referred to the principle that has been stated by Sir Barnes Peacock in Lindsay Petroleum Co. v. Prosper Armstrong Hurd, Abram Farewall, and John Kemp[(1874) 5 PC 221], which is as follows: -

"Now the doctrine of laches in Courts of Equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy, either because the party has, by his conduct, done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has, though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitations, the validity of that defence must be tried upon principles substantially equitable. Two circumstances, always important in such cases, are, the length of the delay and the nature of the acts done during the interval, which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as relates to the remedy."

11. It is a settled law that delay and laches must be explained to the satisfaction of the Court for seeking condonation as held in the case of S.S. Rathore Vs State Of Madhya Pradesh 1990(4) SCC 582, Bhup Singh Vs Union of India & Ors. (1992 A.I.R. S.C. Page 1414), C. Jacob Vs. Director of Geology and Mining & Anr, 2009 (10) SCC 115 and Union of India & Ors. Versus M.K.Sarkar (2010(2) S.C.C. 58).

12. No doubt, applicant submits that he filed representations but filing of representations would not extend the period of limitation. Even, the fact of his making representations does not help the cause of applicant in

taking the stand that his claim is not barred by period of limitation. On the question of filing representations and the legal effect, it was held by Hon'ble Apex Court in:

i. Union of India & Others Vs. M.K. Sarkar (2010) 2 SCC 58:-"15. 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 can not 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"

ii. Jacob vs. Director of Geology and Mining, (2008) 10 SC 115 that:- The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation. Secondly they assume that a mere direction to consider and dispose of the representation does not involve any `decision' on rights and obligations of parties. Little do they realize the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of the long delay, all by reason of the direction to `consider'. If the representation is considered and rejected, the ex employee files an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.

10. 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.

11. When a direction is issued by a court/tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an order does not revive the stale claim, nor amount to some kind of 'acknowledgment of a jural relationship' to give rise to a fresh cause of action."

13. As observed by the Hon'ble Apex Court in Union of India Vs. Harnam Singh, 1993(2) S.C.C. 162, that the Law of Limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to aid of those who sleep over their rights and allow the period of limitation to expire.

14. The records shows that the application filed for compassionate appointment was rejected by the respondents vide order dated 7.7.2008 and which order has not been challenged by the applicant. Learned for applicant submits that he is challenging the impugned order dated 5.2.2014. However, the Letter dated 5.2.2014 is not a order but is a communication informing the applicant on his representation that the rejection stand of the CORE regarding his claim for appointment on compassionate ground is in accordance with the policy and his case is not feasible for appointment on compassionate grounds. By no stretch of imagination, the Letter dated 7.7.2008 can be termed as an order rejecting his candidature for appointment on compassionate grounds. Even, now the applicant has not challenged the said order in the present O.A.

15. The claim of applicant for the relief of appointment on compassionate ground is a stale and dead claim and cannot be entertained at this long lapse of time and his representation in 2013 cannot extend the period of limitation more so, when the cause of action had accrued to the

applicant in the year 2008 when his application for compassionate appointment was rejected by the respondents.

16. It is a settled principle of law that the doctrine of delay and laches should not be lightly brushed aside. A court/Tribunal 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 scrutinize 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.

17. In the light of the aforesaid settled principle of law and facts of the case as noted above, I am of the view that the applicant has failed to make out a sufficient cause for not making the original application within the period of limitation as envisaged by Section 21 of the Act, as such, the O.A. is dismissed being barred by period of limitation. There shall be no order as to costs.

(**RAKESH SAGAR JAIN**)
MEMBER-J

Manish/-