

**Central Administrative Tribunal
Principal Bench**

MA No.2230/2019
In
RA No.152/2019
OA No. 3985/2014

New Delhi this the 13th day of August, 2019.

Hon'ble Mr. Pradeep Kumar, Member (A)

Director,
All India Institute of Medical Sciences,
Raj Nagar,
New Delhi-110029.

... Review Applicants

Versus

Indrajeet Yadav,
Age-32 years (Sister Grade-II),
S/o Sh. Vijay Pal,
R/o H.No.71, Saidulajab,
Mehroli, Near Kishan Dairy,
New Delhi-110030.

... Respondent

ORDER (By Circulation)

MA No.2230/2019 has been filed by the review applicants (original respondents) seeking condonation of delay of 72 days in filing the accompanying Review Application No.152/2019 in OA No.3985/2014. It is stated in the MA by the review applicants that on passage of the order dated 25.09.2018 in OA No.3985/2014, the authorities of the review applicants set-off obtaining relevant legal opinion with respect to the present case and after procurement of the same and compilation of records, a draft of the present RA was prepared which was to be vetted as

per the established procedure. This process was time consuming and necessary. The review applicants have, therefore, prayed for condoning the delay of 72 days, which was neither intentional nor deliberate and was beyond their control.

2. I have perused the MA and also gone through the reason put-forth by the review applicants for condonation of delay in filing the accompanying RA. The reason put-forth is neither satisfactory nor acceptable. If the review applicants were really vigilant about their cause, they could have acted promptly but they failed to do so. Hence, I do not find any justification to condone the delay in filing the accompanying RA. The MA for condonation of delay is, therefore, rejected.

3. RA No.152/2019

The review applicants (original respondents) have filed the instant RA under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987, seeking review of this Tribunal's order dated 25.09.2018 in OA No.3985/2014, vide which the said OA was allowed with the following directions:

“In view of the foregoing, the instant OA is allowed with a direction to the respondents to pay the salary to the applicant for the entire period of study leave within a period of eight weeks from the date of receipt of a copy of this order. No order as to costs.”

4. In support of the RA, the review applicants have raised the following grounds:

- i) There is an error apparent on the face of the record in the impugned order. In addition, the Hon'ble Tribunal may consider the contentions and reply of the review applicants herein.
- ii) As per the copy of the note approved by the Competent Authority for grant of study leave to nursing staff pursuing M.Sc. Nursing dated 31.07.2013 the respondent herein (original applicant) would not qualify for study leave with full pay and allowances. Furthermore, the policy for grant of study leave is limited only to granting study leave with full pay and allowances for pursuing M. Sc. Nursing Course while in the present case the respondent in RA has sought the leave for pursuing a course in Post Basic B. Sc. Course from Jaipur Nursing College, Jaipur, Rajasthan.
- iii) Vide order dated 04.10.2014 the respondent in RA was allowed study leave which would be treated as Extraordinary leave without pay and allowances as per the policy decision for grant of study leave. Despite that the respondent in RA proceeded on leave.

5. I have gone through the order of the Tribunal dated 25.09.2018 and also perused the grounds raised in support of the RA.

5.1 It appears that under the garb of review, the review applicants are trying to re-argue the matter which is not permissible.

5.2 The orders in OA were passed on 25.09.2018 taking into account that as of 31.07.2013, the respondents were considering grant of study leave on case to case basis, and in some cases it was sanctioned with pay and in some without pay. This aspect came under adjudication in OA No.1897/2015 decided on 22.08.2016 and in follow up policy directions were issued on 02.03.2017. Therefore, relying on internal note of 31.7.2013, as has been done by review applicants, is not acceptable.

5.3 If in the opinion of the review applicants the order passed by the Tribunal is erroneous, remedy lies elsewhere and certainly review is not the remedy.

5.4 No new appoint has been brought in by them either. Existence of an error apparent on the face of the record is *sine qua non* for review of the order. The review applicants have failed to bring out any apparent error on the face of order under review

or any new point or any other sufficient reason enabling us to review the order.

6. For the reasons discussed in the foregoing paras, I do not find any merit in the RA. Accordingly, the RA is dismissed in circulation. No costs.

**(Pradeep Kumar)
Member (A)**

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