

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00670/2016
(with MA No.200/00863/2016)

Jabalpur, this Tuesday, the 01st day of October, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Durga Prasad Baghel, S/o Late Shri Nandkishore Baghel, aged about 70 yrs., Retd. Carpenter, R/o H.No.170, Near Ram Mandir, Behind Sagar Campus, Chuna Bhatti, Kolar Road, Bhopal M.P
-Applicant

(By Advocate – Shri Vijay Naidu)

V e r s u s

1. Union of India through its Secretary, Ministry of Human Resource & Development New Delhi – 110001.
2. National Council of Educational Research & Training through its Under Secretary, Shri Aurbindo Marg, New Delhi – 110016.
3. Regional Institute of Education through its Principal/Administrative Officer, Shyamala Hills, Bhopal – 462013
-Respondents

(By Advocate – Shri Ashish Giri)

O R D E R (R E A S O N E D)

By Navin Tandon, AM.

Through this Original Application, the applicant is seeking revision of his pay and pension based upon the implementation of recommendations of 2nd Pay Commission along with all consequential benefits.

2. Along with the O.A, the applicant has also filed MA No.200/00863/2016 for condonation of delay, wherein he has *inter alia* stated that there is no delay in preferring the instant Original Application as the applicant is continuously agitating the matter before the authority since 1998.

3. Respondents Nos.2 & 3 have filed their reply to the application for condonation of delay, wherein it has been submitted that the applicant is asking for pay revision as per letter dated 02.04.1974. Hence, there is a long delay in filing this O.A. Further, the applicant has not explained the day to day delay for which he could not raise his grievance earlier.

4. Heard the matter on the application for condonation of delay.

5. Section 21 of the Administrative Tribunals Act, 1985 (for short '**the Act**') deals with limitation for filing O.A. before this Tribunal. Under the Act, the limitation has been prescribed for filing O.A. within one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has further been mentioned in the Act that if the application is not filed

within time as stipulated in Section 21 of the Act, then the applicant has to move a Miscellaneous Application for condonation of delay by explaining why Original Application could not be filed within the limitation.

6. The only ground taken by the applicant in his application for condonation of delay is that he has been continuously representing the matter since 1998 and, therefore, the cause is recurring in nature.

7. In the case of **S.S. Rathore vs. State of M.P.** (1990 SCC (L&S) 50), the Hon'ble Supreme Court has held as under : -

“20. 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.

21. It is appropriate to notice the provision regarding limitation under Section 21 of the Administrative Tribunals Ac. 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 courts'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.”

7.1 Thus, it is well settled that successive representations cannot extend the period of limitation.

8. In the instant case, the applicant should have raised the issue when the circular was issued in the year 1974. However, he kept silent and did not agitate the matter since then. Now, in the year 2016, i.e. after more than 40 years, he is seeking relief, without there being any satisfactory explanation for not approaching the Tribunal within the limitation period. Thus, we find that the O.A is barred by limitation as per Section 21 of the Administrative Tribunals Act, 1985.

9. In view of the aforesaid, MA for condonation of delay is rejected and the O.A is dismissed as barred by limitation.

(Ramesh Singh Thakur)
Judicial Member

am/-

(Navin Tandon)
Administrative Member