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## CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH KOLKATA

MA No. 95 of 2013  
OA no. 747 of 2012

Dated of order: 23.02.2016

### PRESENT:

THE HON'BLE MR. JUSTICE V.C.GUPTA, JUDICIAL MEMBER  
THE HON'BLE MS. JAYA DAS GUPTA, ADMINISTRATIVE MEMBER

BHABATOSH CHAUDHURI

V/S

E.RLY

For the Applicant :Mr.A.Chakraborty, Counsel

For the Respondents:Mr.B.L.Gangopadhyay, Counsel

### ORDER

#### JUSTICE V.C.GUPTA, JM:

Heard learned counsel for both sides on the aforesaid  
MA.

2. The ground taken for condonaton of delay is that his  
pay was wrongly fixed in 2010 and was not given the advantage of  
the circular No. 115/2007 in which he was entitled to one  
increment. He made representation. The representation was  
decided on 21.11.2011. Thereafter, he filed this OA i.e. within one  
year from the date of decision on his representation.

3. As a pre caution, he filed this MA seeking for  
condonation of delay. He relied on the decision of the Hon'ble  
Apex Court in the case of **M.R.Gupta V Union of India and  
Others, 1995 SCC (L&S) 1273** wherein the Hon'ble Apex Court  
held that wrong fixation of salary is a continuing wrong and give a  
continuing cause of action. Accordingly, the learned counsel for

(H.S)

the applicant has prayed that the delay if any in preferring this OA may be condoned.

4. The learned counsel for the Respondents vehemently argued that the applicant has filed representation after more than five years, that too after retirement. Hence the case is highly delayed and no plausible explanation has been given by the applicant. Hence he has prayed for dismissal of this MA.

5. Considering the submissions made by the learned counsel for both sides and keeping in view the decision of the Hon'ble Apex Court in the case of M.R.Gupta (supra), we are of the view that the delay needs to be condoned and it is accordingly condoned. OA be rejected.

6. MA is accordingly disposed of. No costs.

(Jaya Das Gupta)  
Admn. Member

(Justice V.C.Gupta)  
Judicial Member

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