

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
OA No.600/2003
MA No.635/2003

New Delhi, this the 16th day of December, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.A. Singh, Member (J)

Dr. (Mrs.) Indu Dev,
W/o Shri Jag Mohan Dev,
Flat No. 80, Nehru Apartments,
Outer Ring Road, Kalkaji,
New Delhi.

... Applicant

(By Advocate: Shri G. Sivabalamurugan)

Versus

1. Union of India through
The Secretary,
Ministry of Defence,
(Production), South Block,
New Delhi - 110 001.
2. Ordnance Factory Board,
Service through the Chairman
10-A, Auckland Road,
Calcutta - 700 001.
3. Director General, Ordnance Factories,
10-A, Auckland Road,
Calcutta-700 001.

Presently respondents no. 2 and 3 are
operating their office in Delhi Jurisdiction
at :

Ordnance Factory Cell,
G-Block, Ministry of Defence,
D.H.Q., P.O.,
New Delhi - 110 011.

... Respondents

(By Advocate: Shri S. Mohd. Arif)

O R D E R (ORAL)

Justice V.S. Aggarwal, Chairman -

Applicant [Dr. (Mrs.) Indu Dev] by virtue of
the present application has prayed for the following



reliefs:

- (a) " to direct the respondents to accord the promotional benefits to the applicant for the post of Addl. Director (Health Service) w.e.f. 1.2.1995 to 26.09.1997;
- (b) to direct the respondents to accord the pay & allowance of Director (Health Service) w.e.f. 1.1.1998 to 31.12.2000 i.e. upto superannuation and consequential refixation of terminal benefits;
- (c) to direct the respondents to accord the monetary benefits to the applicant from the date the applicant is entitled to after antedating the promotion to the said post of Addl. Director (Health Service);
- (d) to direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for adjudication of the points at issue; and
- (e) pass such any other order (s)/direction(s) fit to the facts and circumstances of the present case and thus render justice."

Along with the original application, Misc. Application No. 635/2003 has been filed seeking condonation of delay in filing the same. It has been pleaded that she had challenged the order of 11.6.1998 rejecting her representation of 3.10.1997 and thereafter she further represented on 9.10.1998 before her Cadre Controlling Authority wherein she had stated that respondent No. 2 had not disposed of her representation with a speaking order. While her representation was pending, she had preferred O.A. No.



13

1662/1999. During the pendency of the said original application, the applicant superannuated on 31.12.2000. She had started living in Delhi and submitted an application for transfer of her application to the Principal Bench, which was allowed. In the said original application referred to, on 19.2.2003, the counsel had stated that during the pendency of the same, the order dated 29.05.2000 had been passed. She had prayed for permission to consider the same with liberty to agitate against the said order. In face of these facts, it has been pointed that she has been prosecuting her claim with due diligence and in that back-drop, it is prayed that the delay may be condoned.

2. Application has been contested. The respondents contend that there is no rule for making repeated representations. The period of limitation would start running from 11.6.1998 and even the earlier application was barred by time.

3. We have heard the parties' counsel and have seen the relevant record.

4. Under the provisions of the Administrative Tribunals Act, 1985, the concerned person, whose application is barred by time, can seek condonation of delay if he/she satisfies this Tribunal that there was just and sufficient grounds for not presenting the application within time, but the just and sufficient

LSAg e

grounds would vary in the facts and circumstances of each case. If the person concerned was prevented by cause beyond his control, that by itself normally is taken to be just and sufficient ground for condonation of delay.

5. In the present case, admittedly the applicant on an earlier occasion filed OA No. 1662/1999. The challenge at that time was to the order of 11.6.1998. Learned counsel for the respondents, in our opinion, rightly pointed that even the said application was barred by time.

6. It is true that the application had been withdrawn by the applicant on 19.02.2003 with liberty to challenge the order of 29.05.2000, but while permission was granted, this Tribunal had not condoned the delay. Even for a fresh cause that had arisen, if any, the limitation would start running from the said date. Even from that date, the present application which has been filed on 13.3.2003, is barred by time.


7. Learned counsel for the applicant pointed that the applicant had been filing representations and, therefore, the claim should not be taken to be barred by time. We find no reason to accept the said plea because of the fact that filing of representations will not extend the period of limitation. A Constitution

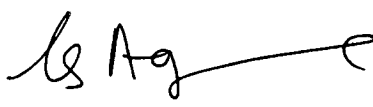


15

Bench of the Supreme Court in the case of S.S.Rathore vs. State of Madhya Pradesh, AIR 1990 SC 10 has clearly held in this regard which leaves little scope for further probing on this count. The said plea necessarily must fail.

8. The facts reveal that not only the earlier application that was withdrawn was barred by time, but the period of limitation started running against the applicant and the delay had never been condoned. There are no just and sufficient grounds which may prompt us to condone the delay. In this view of the matter, Misc. Application, being without merit, must fail and is accordingly dismissed. Resultantly, the original application must also fail and is dismissed with no order as to costs.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

/sns/