

11

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.210/00804/2019

Dated this Thursday, the 05th day of December, 2019

CORAM: DR. BHAGWAN SAHAI, MEMBER (A)
R.N.SINGH, MEMBER (J)

Mrs. Sushama H. Misar, Age 64 years, Occupation : Retired,
Residing at: 904 Tulip, Everest World, Kolshet Road,
Thane (West) 400 607, District Thane. .. Applicant
(By Advocate Shri D.J.Dalal)

Versus

1. Union of India, Through the Secretary, Ministry of HRD,
Government of India, New Delhi.
2. The Commissioner, Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shahid Jeet Singh Marg,
New Delhi 110 016.
3. The Additional Commissioner (Admin & CVO),
Kendriya Vidyalaya Sangathan, 18, Institutional Area,
Shahid Jeet Singh Marg, New Delhi 110 016.
4. Deputy Commissioner and the Disciplinary Authority,
Kendriya Vidyalaya Sangathan, Under Ministry of HRD,
Government of India, IIT Campus, Powai,
Mumbai 400 076. - Respondents

ORAL ORDER
Per : R.N.Singh, Member (Judicial)

Heard the learned counsel for the
applicant.

2. The applicant who is stated to have
retired from post of Principal while working
with the respondents has approached this
Tribunal seeking the following reliefs:

“8.a. That this Hon'ble Tribunal be pleased to issue a
direction or order against the Respondent No.3 so as to
decide the pending appeal in a time bound manner and

also opportunity of being heard should be given to the present Applicant.

8.b. That this Hon'ble Tribunal be pleased Direct Respondent No.3 and 4 herein so as to return the amount of Rs.2,35,060/- along with interest thereupon, which was illegally deducted by the Respondent No.3 and the Respondent No.4 from the pensionary benefit payable to the Applicant herein.

8.c. Considering the peculiar circumstances of the case and that the Applicant is a Senior Citizen and retired and her pensionary benefits are adversely affected to her prejudice, it is prayed that the Original Application may be decided at admission stage itself.

8.d. That the costs of this Original Application be awarded in favour of Applicant against Respondents No.3 and 4, by this Hon'ble Tribunal.

8.e. For such other orders as justice and convenience may demand from time to time be passed in favour of the Applicant by this Honourable Tribunal."

3. The brief facts leading to the present OA as contended by the learned counsel for the applicant are that the applicant has received the charge memorandum dated 24.03.2015 (Annex A-5) under Rule 16 of the CCS (CCA) Rules, 1965 and the same was duly replied by him which was considered by the respondents and order dated 04.06.2015 was passed by the Disciplinary Authority imposing minor penalty upon him for recovery of the pecuniary loss of Rs.2,35,060/- caused to the Vidyalaya Vikas Nidhi (VNN) Fund Account. The applicant has stated to have preferred a statutory appeal dated 22.06.2015 before the

respondent No.3, a copy of which though is not on record. The learned counsel for the applicant submits that in spite of the said statutory appeal dated 22.06.2015, no action was taken by the respondents and the applicant finally retired from service on 31.07.2015. Thereafter, the applicant has preferred representation dated 25.03.2019 (Annex A-18) to the respondent No.3 requesting to decide the pending appeal.

4. The learned counsel for the applicant submits that even after lapse of more than six months of such representation dated 25.03.2019 neither the aforesaid appeal dated 22.04.2016 nor the representation dated 25.03.2019 of the applicant has been disposed of by the respondents and, therefore, the present OA.

5. We have heard the learned counsel for the applicant. We find that even if the applicant has preferred the statutory appeal on 22.06.2015 and no action was taken by the respondents thereon even for around four years, the applicant has not chosen to take remedial action in the matter and only is

stated to have made representation dated 25.03.2019 i.e. after around more than three years of his retirement. It is not disputed that the said representation dated 25.03.2019 is not a statutory representation. In such view of the matter if at all any cause of action has accrued to the applicant, the same has arisen after six months of non-disposal of the statutory appeal dated 22.06.2015 and in view of the provision of the Section 21 of the Administrative Tribunals Act, 1985, the applicant was required to approach this Tribunal within a year of such cause of action.

6. It is the settled law that mere representation(s) and that too a belated non-statutory representation will not extend the period of limitation. We may refer and rely on the law laid down by the Hon'ble Supreme Court in **S.S.Rathore Vs. State of MP**, reported in 1988 Supp (1) SCC 522 : AIR 1990 SC 10 and further on the judgment of Hon'ble Supreme Court in **Union of India and others Vs. M.K.Sarkar**, (2010) 2 SCC 59 : 2009 (14) Scale 425, wherein it is ruled that belated

representation will not give a fresh cause of action and even the Tribunal is not expected to dispose of the OA by directing the respondents to consider such belated representation. No application seeking condonation of delay has been filed and the learned counsel for the applicant submits that the order may be passed on the basis of available pleadings on record before the Tribunal.

7. In view of the aforesaid, the OA is hopelessly barred by limitation and accordingly, the same is dismissed. No order as to costs.

(R.N.Singh)
Member (Judicial)

(Dr.Bhagwan Sahai)
Member (Administrative)

*kmg**

*JD
10/12/12*

