
(2020) 02 CAT CK 0032

In the Central Administrative Tribunal

Case No : Original Application No. 1591 Of 2015

Ram Singh

APPELLANT

Vs

Indian Council Of Agricultural Research And Ors

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2020) 02 CAT CK 0032

Hon'ble Judges : Vijay Lakshmi, Member (J); Pradeep Kumar, Member (A)

Bench : Division Bench

Advocate : Praveen Swaroop

Final Decision : Dismissed

Judgement

Vijay Lakshmi, Member, J

1. Today this OA has been listed for ?For Being Spoken To?.
2. When we had earlier heard this matter on 12.2.2020, a preliminary objection had been raised by learned counsel for the respondents, by contending that this OA is hopelessly barred by limitation as there is a delay of about 12 years in its filing. According to learned counsel, the cause of action in this case had arisen in the year 1993 whereas the OA was filed in the year 2015.
3. Learned counsel for the applicant had during earlier hearing opposed the said objection by contending that there is no delay in filing the OA due to the reason that the applicant was continuously pursuing his case by filing several representations, i.e., the representations dated 26.10.1999, 25.2.2000, 29.3.2000, 2.4.2002, 14.6.2001, 18.6.2011, 4.7.2011, 7.10.2011, 14.8.2012 and 12.3.2012 before the competent authority for redressal of his grievances.
4. However, during earlier hearing, none for the counsel had brought our attention to the order dated 24.4.2019, passed in this OA which reads as under:-

"Nobody appears for the applicant. Counsel for the respondents is heard. He only

opposes this OA mainly on the ground of delay in submission of the same as the relief claimed are from previous date and hence, submits that the applicant is not entitled to any relief. However, we have examined the service grievance addressed by ICAR vide their letter dated 27.01.2015. This is a specific reply to the grievance of an SC employee working in ICAR in which it has been observed that one of the reasons why he was not given promotion is because there was no employee available against the Scheduled Caste vacancy. Hence, this matter needs examination and accordingly, the applicant is given an opportunity to present his case."

5. Although the aforesaid order is vague, however, by giving the applicant opportunity it appears that the delay has been condoned by this Tribunal. To clarify this aspect, this matter was posted for ?for being spoken to? on 18.2.2020.

6. On 18.2.2020, no one appeared for the applicant whereas learned counsel for the respondents was present.

7. In reply to our query, learned counsel for the respondents submitted that the Order dated 24.4.2019, in no way can be interpreted so as to condone the inordinate delay of 12 years. He has submitted that due to the reason that applicant was not appearing to pursue his case and even on that day too, i.e. on 24.4.2019, when no one was found present for the applicant, this Tribunal gave the applicant an opportunity to present his case, instead of dismissing his case in his default.

8. Learned counsel for the respondents has once again laid heavy stress on his preliminary objection of delay of 12 years in filing of this OA, that too without filing any misc. application for condonation of delay. He has vehemently contended that as per well settled legal position by Hon?ble Apex Court in the case of D.C.S. Negi vs. UOI and others (SLP Civil No.7956/2011 dated 11.3.2011), time barred applications are not to be entertained by the Tribunal and several representations made by the applicant cannot be considered as a sufficient ground to condone the delay.

9. The Hon?ble Apex Court in the case of S.S. Rathore v. State of Madhya Pradesh, (1989) 4 SCC 582 has held as under:-

"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.

.....

Repeated unsuccessful representations not provided by law are not governed by this principle. It is appropriate to notice the provision regarding limitation under

s. 21 of the Administrative Tribunals Act. 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)."

In the case of State of Uttaranchal and another v. Sri Shiv Charan Singh Bhandari and others, 2013(6) SLR 629, Hon'ble the Supreme Court, while considering the issue regarding delay and laches and referring to earlier judgments on the issue, opined that repeated representations made will not keep the issues alive. A stale or a dead issue/dispute cannot be got revived even if such a representation has either been decided by the authority or got decided by getting a direction from the court as the issue regarding delay and laches is to be decided with reference to original cause of action and not with reference to any such order passed.

In Union of India and others v. M.K. Sarkar, 2010 (2) SCC 58, the Hon'ble Apex Court reiterated this principle as under:-

The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

From the aforesaid authorities it is clear as crystal that even if the court or tribunal directs for consideration of representations relating to a stale claim or dead grievance it does not give rise to a fresh cause of action.

10. In wake of the above cited legal position and as there is no one to oppose the preliminary objection raised by the learned counsel for the respondents, the OA is dismissed as barred by limitation. No costs.