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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Judgment : 19th September, 2019*

+ W.P.(C) 623/2017
RAM SWARUP

..... Petitioner

Through Petitioner in person.

versus

COMMISSIONER OF POLICE AND ANR Respondents

Through Mr. Rizwan, Mr. Apoorv singhal and
Mr. Sameydeen Advocates for
respondent no.1.

Mr. Bhagwan Swarup Shukla, CGSC
with Mr. Srvan Kumar Shukla,
Advocate for respondent no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

1. The present petition is directed against the order dated 18.08.2015 passed by Central Administrative Tribunal ('Tribunal') by which O.A. No.1272/2014 and M.A. No.2326/2015 filed by the petitioner herein have been rejected.
2. Some necessary facts required to be noticed for disposal of this petition are that the petitioner is a retired government servant who attained the age of superannuation on 31.07.2007. Admittedly, while in service the petitioner was a beneficiary of CGHS. The subject matter of the O.A. pertains to two medical bills raised by the petitioner in the sum of Rs.10,410/- towards medical treatment of his wife and cost of medicine, tests etc. Admittedly the respondent/department vide memo dated

16.06.2004 sanctioned Rs.363/-. We may note that when this writ petition came up for hearing on 24.03.2018, it was noticed that:

“as far as claim for reimbursement of the medical expenses of Rs.10,410/- is concerned, the said bill was cleared and sanctioned for Rs.363/- vide memorandum dated 16th June, 2004. The petitioner had filed OA No.1272/2014 in 2014 alongwith an application for condonation of delay. Looking at the period of delay, we are not inclined to examine this bill and the sanctioned amount.”

3. The only issue which remained for our consideration is with respect to the second bill in the sum of Rs.14,330/- which, according to the petitioner who appears in-person, was submitted in the year 2006; however, the bill has neither been sanctioned nor rejected by the respondents.
4. The petitioner submits that on 25.03.2006, his wife again fell sick since she suffers from Type II Diabetes. She was taken to Dr. Subhash Tyagi for emergency treatment, when an expenditure of Rs.14,330/- was incurred.
5. It is also the case of the petitioner that his place of residence was situate in the Nand Nagri area, which is not covered by CGHS; and further that no authorized medical attendant has been appointed by the department in the said area.
6. There is no doubt that the petitioner made representations dated 11.05.2008 and 08.12.2010 to the respondents in this regard. It is also revealed that the respondent/department vide letter dated 10.02.2011 informed the petitioner that his first medical bill already stands settled; and since the second bill pertains to a period post his retirement, the same

was to be dealt with by CGHS/HQ, Bikaner House, New Delhi. Despite further representations, however no response was received. The stand of the respondents before the Tribunal is that the cause of action, if any, arose in the year 2003 and that the same was therefore barred by limitation. It is also the respondents' case that if the residence of the petitioner was in an area that was not covered by the CGHS, he was entitled to avail medical facilities from authorized medical attendants under the CS (MA) Rules, 1944. The Tribunal remained unimpressed by the submission of the petitioner that since he was continuously corresponding with the department, the matter should not be dismissed on the ground of limitation.

7. It is settled law that the period of limitation is not extended merely by making representations. In the case of ***State of T.N. v. Seshachalam***, (2007) 10 SCC 137, the Hon'ble Supreme Court, while testing the equality clause on the bedrock of delay and laches, held as under:

“11....filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant...”

8. Further, the Supreme Court in ***State of Tripura & Ors. vs. Arabinda Chakraborty & Ors.***, Civil Appeal No. 1322 of 2007 decided on 21.04.2014, held as under :

“10. In our opinion, the suit was hopelessly barred by law of limitation. Simply by making a representation, when there is

no statutory provision or there is no statutory appeal provided, the period of limitation would not get extended. The law does not permit extension of period of limitation by mere filing of a representation. A person may go on making representations for years and in such an event the period of limitation would not commence from the date on which the last representation is decided...

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13. It is a settled legal position that the period of limitation would commence from the date on which the cause of action takes place. Had there been any statute giving right of appeal to the respondent and if the respondent had filed such a statutory appeal, the period of limitation would have commenced from the date when the statutory appeal was decided. In the instant case, there was no provision with regard to any statutory appeal. The respondent kept on making representations one after another and all the representations had been rejected. Submission of the respondent to the effect that the period of limitation would commence from the date on which his last representation was rejected cannot be accepted. If accepted, it would be nothing but travesty of the law of limitation. One can go on making representations for 25 years and in that event one cannot say that the period of limitation would commence when the last representation was decided..."

9. In view of the law as enunciated by the Supreme Court, it is clear that the Tribunal rightly rejected the M.A. filed by the petitioner seeking condonation of delay. Moreover the Tribunal also examined the matter on merits and did not find any merit in the O.A.
10. We have also heard the petitioner in-person and counsel for the respondents and find no infirmity in the decision rendered by the Tribunal, either in dismissing the M.A. seeking condonation of delay or on the merits of the matter. The Tribunal has dealt with the M.A. seeking

condonation of delay in para 6 of the impugned order, which we reproduce below :

“6. Admittedly, the applicant submitted his first medical claim for Rs.10,410.15 on 19.6.2002 and second medical claim for Rs.14,330/- on 20.7.2007. As regards his first medical claim of Rs.10,410.15, along with his O.A., the applicant has filed copy of memo dated 16.6.2004 issued by respondent no.1 sanctioning Rs.363/-. Thus, it is clear that respondent no.1 settled the applicant's first medical claim of Rs. 10,410.15 by allowing and sanctioning Rs.363/- only and by disallowing reimbursement of the balance amount of the said claim, vide sanction memo dated 16.6.2004. Although the applicant claimed that the said amount of Rs.363/- was not received by him, yet he has not stated that the fact of sanction of Rs.363/- was not in his knowledge. Therefore, as regards denial of reimbursement of full amount of medical claim of Rs. 10,410/-, the cause of action arose on 16.6.2004 and he should have approached the Tribunal within the period of limitation prescribed under the A.T. Act. As regards his second medical claim of Rs.14,330/- submitted on 20.7.2007, if the respondent-Department did not settle the same within a reasonable period, the applicant ought to have approached the Tribunal within the period of limitation prescribed under the A.T.Act. It is trite law that making representations and correspondences from time to time with the Department, after the cause of action arose, is not sufficient explanation for. the delay in approaching Court/Tribunal and does not save limitation or extend the period of limitation prescribed under the statute. In view of this, MA No.2326 of 2015 is rejected. In the circumstances, the O.A. filed by the applicant in 2014 seeking the reliefs, as aforesaid, being barred by delay and laches is liable to be rejected.”

11. As noted above, the case of the petitioner is that his wife, who is suffering from diabetes was taken for treatment to one Dr. Subhash Tyagi. That being said however, it is also the petitioner's case that his wife obtained

treatment from Dr. Subhash Tyagi and that he purchased medicines etc. on various dates during the period from 25.08.2006 to 31.05.2007; but during this entire period, the petitioner did not follow the prescribed procedure. In case no authorized medical attendant was appointed, he ought to have approached the concerned medical officers, who are authorized medical attendants in terms of Rule 2(a)(A) of the CS (MA) Rules, 1944 as it is not the case of the petitioner that the ailment of the wife was a one-time emergency episode or that no time was available for the petitioner to approach the concerned Medical Officers.

12. In the above view of the matter, we find no infirmity in the order dated 18.08.2015 passed by the Tribunal which would require interference under Article 226 of the Constitution of India. The present writ petition is accordingly dismissed.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 19, 2019

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