

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1175/2001

NEW DELHI, THIS THE 19<sup>th</sup> DAY OF MARCH, 2003..

HON'BLE MR.JUSTICE V.S.AGGARWAL, CHAIRMAN  
HON'BLE MR.A.P.NAGRATH, MEMBER (A)

1. Smt. Sunita Raswant  
W-o Shri Chander Prakash Raswant
2. Smt.Shama Nawab  
W/o Shri M.Nawab
3. Smt. Madhu Sheel Kalra  
W/o Shri S.K.Kalra

(All working as Bill Issuers under  
Senior Commercial Manager, Parliament  
House Catering Complex,  
New Delhi.

... Applicants

(By Shri B . S.Mainee, Advocate)

vs.

Union of India  
Through

1. The Chairman  
Railway Board  
Rail Bhawan  
New Delhi.
2. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
3. The Senior Commercial Manager  
(Catering) Parliament House Catering Complex  
New Delhi.

.... Respondents

(BY Shri R.L.Dhawan, Advocate)

ORDER

JUSTICE V.S.AGGARWAL :-

The applicants had joined their career as casual Bill Issuers at the rate of Rs.15 per day in the years 1981 and 1982. Temporary status was granted to them after 120 days of

*U.S. Aggarwal*

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work vide an order of 11.4.1983. The screening of the applicants had been effected on 5.5.1993 for the post of Bill Issuer in the Parliament House Catering Complex and they were placed in the scale of Rs.825-1200 (RPS) for purposes of regularisation of their ad hoc service.

2. By virtue of the present application, they seek a direction to the respondents to regularise their services from the date they had completed three years of casual service as has been done in other cases by the respondents and consequential benefits should be awarded to them. According to the applicants, consideration of their cases was delayed without any act on their part. They contend that in the seniority list drawn of the applicants, they had not been given the due seniority from the back date. A decision had been taken on 16.2.2001 in this regard and hence according to them, the applicants are ~~entitled~~ entitled to the relief referred to above. It has also been claimed that the applicants are entitled to the benefit of Assured Career Progression Scheme (ACP) on completion of 12 years of service.

3. In the reply filed, a preliminary objection has been taken that the applicants have claimed plural reliefs and consequently, the application is not maintainable. It has also been contended that the application is barred by time. The applicants had been regularised vide the order dated 5.5.1993 and the applicants had filed the present application after the expiry of the period of limitation. On merits of the matter also, the assertions of the applicants have been controverted. It has also been pointed that the applicants have not challenged the order of 5.5.1993. A plea has been raised that one Renu Sethi had filed OA No.1700/1995 seeking

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regularisation in the post of Unit Catering Manager from 22.1.1984 i.e. 3 years after ~~her~~ ad hoc service. This Tribunal held that she was not entitled to regularisation from 1984 and that she was entitled to be regularised from the date of her screening i.e. 13.8.1990. It is denied that the applicants in this process can claim regularisation from an earlier date.

4. During the course of submissions, the first and foremost question that comes up for our consideration was as to whether the present application filed would be within time or not? According to the respondents' learned counsel, the applicants were regularised vide order of 5.5.1993 and they cannot, therefore, claim seniority or that they should be regularised from an earlier date by filing the present application after 8 years of the same. In reply, it was pointed out that cause of action had arisen when the General Manager, Northern Railway had submitted remarks to the Railway Board vide letter dated 16.2.2001, a copy of which was sent to the Senior Commercial Manager, Catering. In addition to that the learned counsel for the applicants contended that once the matter has been listed for hearing, limitation could not come in the way.

5. So far as the letter of 16.2.2001 relied upon by the learned counsel for the applicants is concerned, a perusal of the same clearly shows that this was addressed by the General Manager, Northern Railway to the Secretary, Establishment of the Railway Board. This is an inter departmental communication. This has not even been addressed to the applicants.

6. Under the Administrative Tribunals Act, 1985, the period of limitation of one year to file the necessary application has been prescribed. Repeated representations or raking of stale claims will not extend the period of limitation.

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Necessarily whenever a representation is filed, the department or the Ministry concerned have to deal with it but once the period of limitation has started running, it will not stop merely because the representation has been filed which necessarily has to be considered. In that view of the matter, the said letter will not give the applicants, a cause of action to contend that the period of limitation would start from the same date.

7. In that event, it was pointed that the Supreme Court in the case of RAMESHWAR PRASAD SINHA v. UNION OF INDIA AND ORS. in Civil Appeal No.354-1993 arising out of S.L.P. (C) No.10028 of 1990 decided on 28.1.1993 has categorically held that once an application had been entertained, the question of limitation could not have been raised. To appreciate the true ratio of the decision of the Supreme Court we reproduce the order that has been passed:-

"3. The appeal is directed against the judgement of the Central Administrative Tribunal, Patna Bench rejecting the appellant's application for certain additional benefits on the ground that he had refused to join the general railway strike of 1974 and was a loyal worker during the strike period. Reliance has been placed on certain government circulars. The prayer of the appellant is for an additional increment for his being a loyal worker and in the alternative appointment of his son in the department. The Tribunal has dismissed the application by holding that the same was barred by limitation. A review petition also failed.

4. We have examined the circumstances of the case and find that in view of the appellant's application having been entertained and disposed of later, the view of the Tribunal on the question of limitation is not correct. The claim of the appellant, therefore, should have been considered and decided on merits which has not been done. The matter is fit for remand to the Tribunal for decision on merits."

8. It is obvious from a perusal of the relevant facts that it was confined to the facts of that particular case. The Supreme Court had not concluded or laid down a principle of



law that once an application is entertained, the limitation period <sup>would</sup> automatically be deemed to be condoned. That was a decision concerning a person who was seeking additional increments for being a loyal worker or in the alternative appointment of his son. In the case of increments, necessarily, since it was a continuous cause, the limitation period would continue to run except that the relief in certain case where it is barred by time would not be granted. Necessarily, therefore, the decision in the case of RAMESHWAR PRASAD SINHA (supra) relied upon by the learned counsel cannot come to the rescue of the applicants. In fact, it is a settled principle of law and we take advantage in referring to a decision of the Supreme Court in the case of RATAM CHANDRA SAMMANTA & ORS. v. THE UNION OF INDIA & ORS., JT 1993 (3) S.C. 418 that the delay deprives the person of the remedy available in law. A person who has lost his remedy by lapse of time loses his right as well. The findings of the Supreme Court read:-

" A writ is issued by this Court in favour of a person who has some right. And not for sake of roving enquiry leaving scope for manoeuvring . Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well."

Identical has been the subsequent decision in the case of P.K.RAMACHANDRAN V. STATE OF KERALA & ANR., JT 1997 (8) S.C. 189. The Supreme Court has held that the reason or explanation for delay to be condoned is a pre-requisite and in the absence of there being no reason, delay could not be condoned. If the statute prescribes a period of limitation, the court has no power to extend the same even on equitable grounds. The Supreme Court concluded:-

"6. Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribes"

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and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside."

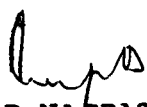
9. More close to the facts of the present case is the decision of the Apex Court in the case of RAMESH CHAND SHARMA v. UDHAM SINGH KAMAL AND OTHERS, (1999) 8 SCC 304. This was a decision arising out of the Administrative Tribunals Act, 1985. The Supreme Court held that it is always open to the party concerned to seek condonation of delay. If he does not do so, in that event, delay could not be condoned. We reproduce the findings of the Supreme Court as under:-

"7. On perusal of the materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under Section 21(3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the OA filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21(1) of the Administrative Tribunals Act, 1985. The law in this behalf is now settled (see Secy. to Govt. of India v. Shivram Mahadu Gaikwad, 1995 Supp (3) SCC 231) "

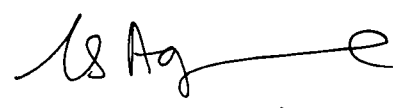
Identical indeed is the position herein. We have already referred to above that the applicants had delayed their action. They came 8 years after their services having been regularised in 1993. Now they seek that they should be regularised from a past date. No application for condonation of delay has been filed. In that back-drop, keeping in view the ratio decidendi of the decisions of the Supreme Court, the application must be taken to be barred by time.

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10. For these reasons, it becomes unnecessary for us to consider the other aspects. The application must fail and is accordingly dismissed. No costs.



(A.P.NAGRATH)  
MEMBER (A)



(V.S.AGGARWAL)  
CHAIRMAN

/sns/