

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No: 137/99

New Delhi this the (5th) Day of February 1999.

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri R.K. Ahooja, Member (A)

Shri Parmanand,
S/o Shri Lalmani,
R/o 6/500 Trilokpuri,
New Delhi

Applicant

(By Advocate: Shri Hari Prakash)

-Versus-

1. Union of India,
Through the Director General,
Directorate General of Foreign Trade,
(Ministry of Commerce),
Udyog Bhawan,
New Delhi
2. The Joint Director General,
Office of the Joint Director General of
Foreign Trade (Ministry of Commerce),
South East Wing,
New Marine Lines,
Church Gate,
Bombay
3. Central Employment Exchange,
M/o Labour (DGE&T),
2A/3 Asaf Ali Road,
Kundan Mansion Building,
New Delhi
4. Directorate of Employment,
Employment Exchange Chhatra Marg,
University of Delhi,
Delhi.

Respondents

(By Advocate: None)

O R D E R

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant submits that he had applied in response to an advertisement issued by the Joint Chief Controller of Imports and Exports in Employment News dated 22-28 May, 1993 for the post of a Junior Hindi Translator. He was called for a written test and interview and was offered the appointment which was

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accepted by him. The applicant submits that though

the advertisement was against a regular vacancy, the

offer of appointment given to him was only for 60

days. He joined at Bombay on 15.11.1993 and his

services thereafter were extended for a period of 60

days each time. From the very beginning he claims

that he was treated as a permanent employee and was

deputed as such for special assignments with CBI etc.

During the course of his employment he learned that

while two posts were advertised, 3 persons were

appointed but one of the two others other had left the

service and the second one given the regular

appointment and on that basis he also made a number of

representations for his regularisation but in vain.

He submits that he obtained leave from 12.6.1995 to

23.6.1995 in order to sit for Civil Services

(Preliminary) Examination 1998. However, because of

his illness he sent a request to Respondent No. 2 for

extending his leave period and finally he reported

back for duty on 19.9.1995. The respondents, however,

by the impugned order, Annexure A, dated 18.9.1995

terminated his services since he did not turn up for

duty w.e.f. 9.6.1995. The applicant submits that he

made various representations against this order and he

has now been informed by the letter of Deputy Director

General, Foreign Trade dated 17.12.1998 that his

appeal had been examined in consultation with the

Department of Personnel and Training but has been

finally turned down. He has now come before the

Tribunal challenging the letter of termination dated

8.9.1995 and the rejection of his appeal dated

17.12.1998 on various grounds.

(b)

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2. We have heard Shri Hari Prakash, learned counsel for the applicant on admission. The learned counsel argued that as the applicant was pursuing his case for departmental remedy, he could not come before the Tribunal till the final rejection of his appeal by the order dated 17.12.1998. He came to the Tribunal within one month thereafter. He submitted that under Section 21(a), it is the final order as defined in Sec. 20(2)(a) which is relevant for determining the limitation and that final order is the one which is made by Government or other authority or officer competent to pass such order rejecting any appeal preferred or representation made by the aggrieved person. The letter of Ministry of Commerce, Director General of Foreign Trade dated 17.12.1998 is therefore the final order. Hence, according to the learned counsel the applicant is well within time.

3. We have considered the matter carefully. In our view the matter is already settled by the Hon'ble Supreme Court in S.S. Rathore Vs. State of M.P. AIR 1990 SC 10. It has been held by the Hon'ble Supreme Court therein that the cause of action shall be taken to arise on the date of the order of the higher authority disposing of the appeal or representation but where no such order is made within six months after making such appeal or representation, the cause of action would arise from the date of expiry of six months. It has also been laid down that repeated unsuccessful representations not provided within the law did not enlarge the period of limitation.

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It follows that either the aggrieved Govt. Servant has to approach the Tribunal within a period of one year from the date of the original order or from the order of the higher authority or within six months from the date of giving the representation if the same is disposed of by the higher authority. The limitation therefore, would be within a period of one and a half year of the date of the order of competent authority. It also means that the representation has to be filed within the statutory period, if so prescribed. Where it is not so prescribed one must take it as a reasonable period. In the present case, as the letter dated 17.12.1998 shows that the representation itself was filed by the applicant on 27.9.1998 i.e., nearly 3 years after the order of termination of service. The representation itself was thus filed well past the period of one year six months. There is no application for condonation of delay explaining as to why the representation could not be filed earlier. In these circumstances no allowances can be made for the latches on the part of the applicant in pursuing his case with the competent authority.

5. In these circumstances, we find that the application suffers from latches and is, therefore dismissed under Section 21 of the A.T. Act.

R.K. Aahooja
(R.K. Aahooja)
Member (A)

T.N. Bhatia
(T.N. Bhatia)
Member (J)