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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1607/99

MA-1416/99

New Delhi this the 17th day of April, 2001.

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Sh. O.N. Gupta,
S/o Sh. Ramgopal Gupta,
R/o H.No.93A, Pocket-A,
II Phase, Mayur Vihar,
Delhi .

..... Applicant

(through Sh. V.P. Kohli, Advocate)

Versus

1. Union of India through
the FA & CAO/Admn.,
Northern Railway,
Baroda House,
New Delhi.

2. The Senior D.A.O.,
Northern Railway,
Moradabad.

..... Respondents

(through Sh. Rajeev Bansal, Advocate)

ORDER

Hon'ble Dr. A. Vedavalli, Member(J)

The applicant, O.N. Gupta, a retired Railway servant has impugned the respondents letter dated 04.12.92 (Annexure A/1) regarding the payment of monetary incentive/honorarium for certain additional work done by him while he was in service.

2. Heard the learned counsel for both the parties. Perused the pleadings and all the relevant papers and documents placed on record.

[Signature]

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3. Facts of this case briefly are that while working as Sr.S.O./Accounts Officer the applicant was called upon to perform the additional duty of Finger Print Examiner for which he is qualified, w.e.f. 03.06.88 upto 14.12.90 for verification of thumb impression of individuals in service records and other documents due to the retirement/transfer of some Finger Print Examiners who were doing that job. He claims that he was not paid the monetary benefit/incentive/honorarium which was due to him for the additional work done by him. He is aggrieved by the impugned order issued by Respondent No.2 (Annexure A/1) informing him that since the applicant had already been paid honorarium in excess of the powers of Sr. Divisional Accounts Officer as per the letter dated 02.11.92 from Respondent No.2 the question of his claim does not arise.

4. The applicant seeks the following reliefs in this OA:-

- (i) That the respondents may please be directed to make payment of the promised monetary benefit to the applicant for the period 3.6.88 to 14.12.90 for the job of Finger Print Examiner undertaken by him or alternatively he be allowed dual duty allowance for the period in terms of para 1337 of Indian Rly. Establishment Code Vol.II (1990 Reprint).
- (ii) That interest at current market rate with effect from 1.1.91 to the date of payment be allowed to the applicant.
- (iii) That cost of the application be allowed in favour of the applicant and against respondents.

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(iv) That the Hon'ble Tribunal be pleased to pass such further order/orders as the Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case."

5. The applicant has also filed MA-1416/99 for condonation of delay in filing this OA.

6. The OA is contested by the respondents who have filed their counter reply to the OA as well as the MA.

7. The respondents in their counter have raised three preliminary objections apart from contesting the OA on merits.

8. The main preliminary objection pressed by the respondents is that the applicant is seeking reliefs for the period from 03.06.88 to 14.12.90 which is barred by limitation.

9. The second preliminary objection raised by the respondents is that the present OA is not maintainable since the applicant had filed a similar application for the same reliefs before the Distt. Consumer Protection Forum II, Moradabad which was dismissed for default and non prosecution and that no second application on the same facts for the same relief can be filed before this Tribunal. They have submitted that the applicant is estopped from filing a second application more so when no liberty was granted by the said Distt. Consumer Protection Forum II, Moradabad.

~~AV~~

10. The third preliminary objection raised by respondents is that the applicant has concealed material facts from this Tribunal, namely, the receipt of the payment of Rs. 5000/- Rs. 6275/- and Rs. 9865/- in the years 1988-89, 1989-90 and 1990-91 respectively for the additional work done by him. Hence he is disentitled from seeking any remedy from this Tribunal.

11. Re the main objection regarding limitation, the applicant submitted that the delay in filing the present OA is unintentional and he has filed an application for condonation of delay also.

12. Re the second preliminary objection raised by the respondents, the applicant in his rejoinder submitted that he had filed the first application in a Court which had no jurisdiction and that he had instructed his counsel to withdraw the same but the Court dismissed the application for non-prosecution before the counsel could move the Court for withdrawal of the said case. He contended that since the said application was not dismissed on merits, present application is maintainable before this Tribunal.

13. Re the third objection, the applicant submitted that he had not concealed any material facts. He contended that the payments referred to by the respondents relate to payments generally allowed to

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Accounts staff to clear rush of work relating to claims of employees on account of re-fixation of their pay after acceptance of the 4th Pay Commission's Report and do not relate to the specialized nature of work entrusted to him by the respondents vide their letter dated 29.11.88 (Annexure A/2).

14. We have given our careful attention to this matter.

15. The applicant is seeking from the respondents the payment of monetary benefits for the period from 03.06.88 to 14.12.90 for the job of Finger Print Examiner with interest at the current market rate from 01.01.91 to the date of payment. His cause of action apparently on the facts of this case can be said to have arisen when the respondents by their impugned order dated 04.12.92 (Annexure A/1) rejected his claim on the ground that he had already been paid honorarium in excess of the powers of Sr. Divisional Accounts Officer. While so, the present OA was filed by the applicant on 16.07.99 i.e. after more than six years and six months from the date when his cause of action arose. Prima facie, the OA is barred by limitation under the provisions of Section 21 of the Administrative Tribunals Act 1985. MA-1416/90 seeking condonation of delay also we find does not contain any cogent and legally sustainable grounds to justify condonation of delay involved in filing the present OA. In our view, there is no sufficient cause shown for condonation of such delay.

A/

16. In the above facts and circumstances, we are of the considered opinion that the present OA is hopelessly barred by limitation and the MA for condonation of delay does not deserve acceptance. As the application is being disposed of on consideration of the main preliminary objection itself, there is no need or necessity to go into the other objections raised by the respondents or the merits of the case.

17. In the result, the OA and MA are dismissed at the admission stage itself. No costs.

A. Vedavalli

(Dr. A. Vedavalli)

Member(J)

S.R. Adige
(S.R. Adige)

Vice-Chairman(A)

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