

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2071/99
M.A.No.2049/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 20th day of October, 2000

J.C. Bijania,
Superintendent,
Childrens Home for boys-1,
Alipur, Delhi.

...Applicant

(By Shri V.S.R.Krishna, Advocate)

Vs.

1. The Govt. of N.C.T. Delhi,
through the Lt. General,
The Govt. of NCT of Delhi,
Raj Niwas, Delhi.

2. The Chief Secretary,
The Govt. of N.C.T. Delhi,
5, Shammath Marg, Delhi.

...Respondents

(By Shri Rajinder Pandita, Advocate)

O R D E R (Oral)

By Justice V. Rajagopala Reddy:

The order of the appellate authority confirming the order of the disciplinary authority imposing a penalty on the applicant is under challenge.

2. The respondents have raised a preliminary objection as to the maintainability of OA on the ground of limitation. It is contended by the learned counsel for the respondents that the OA is liable to be dismissed as it is filed more than one year after the period of limitation expired and therefore hit by Section 21 of the Administrative Tribunals Act, 1985. The learned counsel for the applicant however justifies the delay stating that the applicant's wife was ill, suffering from cervical spondylitis and the

(12)

applicant also filed MA No.2049/99 taking the above grounds of illness of his wife. He also filed certain medical certificates issued by the Aruna Asaf Ali Govt. Hospital dated 3.4.1998 and 1.7.1998. It is also contended by the learned counsel that though he had filed the appeal against the impugned order on 20.7.1996 and as the appellate authority instead of disposing of the same within the period of 45 days as required, he has disposed of on 20.6.1997 which itself contributed for the delay. The disciplinary authority passed the impugned order on 13.6.1996, thereupon the applicant filed an appeal on 20.7.1996 which was disposed of on 20.6.1997. Sections 20 and 21 which are the relevant provisions read as under:

"Section 20: Application not to be admitted unless other remedies exhausted:- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the

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13

President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

Section 21. Limitation:- (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months."

3. As per sub section (2) of Section 20 even after filing an appeal against the order of the disciplinary authority, a person has to wait only for a period of six months from the date the appeal was preferred. Thereafter, he has to approach the Tribunal within a period of one year under Section 21 of the Act. In this case as the appeal was filed on 20.7.1996, the applicant could have waited only till six months, i.e., by 20.1.1997. Thereafter the OA should have been filed within one year, i.e., 20.1.1998. In the instant case the OA filed on 21.9.1999. Thus the OA is clearly hit by Section 21 of the Act. Even if the date of order dated 20.6.1997, of the appellate authority was taken into consideration for the purpose of limitation, the OA should have been filed by 21.6.1998. Thus, in any view of the matter the OA cannot be admitted, as it is barred by limitation.

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4. The only reason given by the applicant in MA is that his wife was suffering from servival spondylytis. The certificates filed by him are of April and June, 1998. The illness of his wife cannot be said to be a tenable ground preventing the applicant from approaching the Court within the period of limitation. Thus, no sufficient reasons have been given for condonation of delay. The OA therefore fails and is accordingly dismissed only on the ground of limitation.

(GOVINDAN S. TAMPI)
MEMBER(A)

/RAO/

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)