

(6)

Central Administrative Tribunal
Principal Bench

O.A. No. 647 of 1999

New Delhi, dated this the 24th ~~October~~ ^{November}, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri A.N. Zutshi,
S/o late Pandit Janki Nath,
R/o 111, Acharya Puri,
Gita Zutshi Marg,
Gurgaon-122001.

... Applicant

(By Advocate: Shri Ashok Kumar)

Versus

Ministry of Labour through
the Secretary,
Government of India,
Shram Shakti Bhawan,
Rafi Marg,
New Delhi-110001.

... Respondent

(By Advocate: Shri D.S. Jagotra)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

In this O.A. filed on 9.3.99, applicant who retired on superannuation on 31.8.82 seeks counting of the services claimed to have rendered by him from 1942 to 1955 in U.P. for purposes of fixation of pension.

2. Respondents in their reply have pointed out that applicant represented in this regard for the first time on 18.7.98, and it may not be possible to verify the facts after such a long time. They have stated that the O.A. is grossly time barred and hit by limitation and deserves to be dismissed in limine.

3. Applicant contends that the wrong

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calculation of pension based upon non-inclusion of service put in by him in UP represents a continuing wrong and thus gives him a recurrent cause of action. Reliance is placed on the Hon'ble Supreme Court's judgment in M.R.Gupta Vs. UOI 1995(5) SCALE 29.

4. We have considered the rival contentions carefully.

5. Applicant retired on superannuation on 31.8.82. There is no avowment in his pleadings that between that date and 18.7.98 he made any representation to respondents for counting of the services claimed to have rendered by him in UP State during the period 1942 to 1955. In other words after sitting quiet for 16 years, he has raised a claim in 1998 for counting of his services which go back 56 years to 1942, and his representation dated 18.7.98 itself refers to OP & T's Circular which goes back over 16 years to 31.3.82. Manifestly this claim is highly belated and is squarely hit by limitation under sec.20 and 21 A.T.Act.

6. In so far as the ruling in M.R.Gupta's case (supra) is concerned, it is clearly distinguishable from the facts and circumstances of the present case. In that case applicant's pay had been wrongly fixed which was held by the Hon'ble Supreme Court to be a continuing wrong giving rise to a recurring cause of action. In the present case, the counting of service claimed by applicant to have been put in by him in UP State from 1942 to 1955 constitutes a one time action. Hence M.R.Gupta's case (Supra) is not applicable here. What however, in our view is much more relevant are the observations of the Hon'ble Supreme Court in

R.C.Samanta & Ors. Vs. UOI & Ors. JT 1993(3) SC
418 that delay deprives the person of the remedy
available in law and a person who has lost his
remedy by lapse of time loses his right as well.

7. The OA is therefore dismissed. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
VICE CHAIRMAN(A).

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