

Central Administrative Tribunal
Principal Bench

O.A.No.1106/98
M.A.No.1127/98

Hon'ble Mr. Justice K.M. Agarwal, Chairman
Hon'ble Shri R.K. Ahooja, Member(A)

New Delhi, this the 3rd day of June, 1998

Shri Chatter Singh
Ex-peon
Govt. Co-Ed. Sr. Sec. School
Tikri Kalan
Delhi - 110 041. Applicant

(By Shri R.N. Saxena, Advocate)

Vs.

1. The Deputy Director of Education
(Distt. West)
Govt. of National Capital Territory of Delhi
Directorate of Education
New Moti Nagar
New Delhi - 110 015.
2. The Principal
Govt. Co-Ed. Senior Secondary School
Tikri Kalan
New Delhi - 110 041. Respondents

O R D E R

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

The applicant, who was working as a Peon in the office of Deputy Director of Education (District West), Director of Education under the Govt. of National Capital Territory of Delhi, is aggrieved by the order dated 12.2.1987 giving him notice of termination of his services under Rule 5(1) of CCS (Temporary Service) Rules, 1965. The applicant submits that he was obliged to remain on leave for certain periods between 1983 to 1986 on account of illness of various members in his family and this resulted in the impugned order. He has challenged the legality of this order on various grounds including that it is punitive in nature, is contrary to the provisions of CCS (Temporary Service) Rules, 1965 and that it is in contradiction to respondents own action allowing him to rejoin duty on return from leave.

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2. We have heard the learned counsel on the question of limitation as the OA prima facie appeared to be time barred. Learned counsel has made two submissions. Firstly, he states that the applicant made a number of representations which were not answered till the letter dated 24.7.1996, Annexure-3 from the respondents. Therefore the cause of action begins from that date. Secondly, learned counsel submits that a Miscellaneous Application for condonation of delay has been filed. According to this application, the applicant was obliged to take leave due to the illness of the members of his family and in fact he lost seven out of his eight children during this period. The learned counsel argued that through out hopes had been held out to him promising favourable action. This induced him to await the result of his numerous representations.

3. We have considered the matter carefully. The order dated 24.7.1996 is not an order but only an intimation to the applicant that his case being an old one the respondents do not propose to reopen the issue. This letter therefore does not give any fresh cause of action. The Supreme Court has held in S.S>Rathore Vs. State of Madhya Pradesh, AIR 1990 SC 10 that cause of action shall be taken to arise on the date of the order of the higher authority disposing of the appeal or representation; 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 is further held that repeated unsuccessful representations not provided by law do not enlarge the period of limitation. Thus the fact that the

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applicant had been filing representations from 1987 onwards does not extend limitation nor does the fact that no reply on the merits of the case was given to him.

4. As regards the application for condonation of delay, we find no adequate justification. The delay here is of 11 years. In case of long delay the remedy available in law is lost. In P.K.Ramchandran Vs. State of Kerala & Another, JT 1997(8) SC 189 Supreme Court has held that law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribes and courts have no power to extend the period of limitation on equitable grounds.

5. We thus find that the OA is time barred and the same is accordingly dismissed at the admission stage itself.


(K.M. Agarwal)
Chairman


(R.K. Ahuja)
Member (A)

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