

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 655/98

199

T.A.No.

14

DATE OF DECISION 3-6-99

Sh.Subhash Chand Sharma

....Petitioner

Shri R.P.Kapoor

....Advocate for the  
Petitioner(s)

VERSUS

UOI & Ors

....Respondent

Sh.D.S. Mahendru

....Advocate for the  
Respondents.

CORAM

The Hon'ble Shri S.R. Adige, Vice Chairman (A)

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? YES

2. Whether it needs to be circulated to other  
Benches of the Tribunal? No.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan )  
Member(J)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.655/98

New Delhi this the 3rd day of June, 1999.

HON'BLE MR. S.R. ADIGE, VICE-CHAIRMAN (A)  
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Subhash Chand Sharma,  
S/o Shri Babu Ram,  
R/o A-104, Old Anarkali,  
Krishan Nagar,  
Delhi-110051.

...Applicant

(By Advocate Shri R.P. Kapoor)

-Versus-

Union of India through:

1. The Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.
2. The Director General (Works),  
C.P.W.D. Nirman Bhawan,  
New Delhi.
3. The Superintending Engineer,  
C.P.W.D. Barakhamba Road,  
New Delhi.
4. The Executive Engineer,  
C.P.W.D. Mahadev Raod,  
New Delhi.

...Respondents

(By Advocate Shri D.S. Mahendru)

O R D E R

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J):

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985, on the grounds that he has been unlawfully discriminated without any reason in respect of consideration for regularisation and being retained as an Enquiry Clerk, whereas, according to him, his juniors have been so regularised by the respondents, which he came to know in 1997.

18.

2. The applicant had earlier filed an application (OA-2355/88) which was decided on 30.5.91 (Annexure A-2). In pursuance of the order of the Tribunal, the respondents have passed an office order dated 18.9.91 in which they have stated, inter alia, that since the applicant was engaged on muster roll as Beldar on 1.1.82, although he had passed the B. Com. examination in 1979, and after reconsidering the case, he cannot be absorbed as Enquiry Clerk/LDC in the Department, as there is no such channel to absorb a Beldar in that post. The respondents in their reply have taken a preliminary objection in the present case that the present application is hopelessly barred by time as they have relied on the order of the Tribunal dated 30.5.91 and the subsequent order passed by them on 18.9.91. They have submitted that the applicant cannot, therefore, now agitate the matter of his regularisation as Enquiry Clerk after nearly seven years.

3. The applicant, on the other hand, has submitted that he has filed an MA along with the OA, for condonation of delay in which he has stoutly denied the fact that the present application is barred by time. Shri R.P. Kapoor, learned counsel has submitted that the applicant's juniors who were working in similar posts have been regularised in pursuance of the order of this Tribunal against which SLP had also been rejected by the Supreme Court in the cases of Shri Ram Nath Singh and Ramesh Chander (Annexures A-3 and A-4), i.e., after the respondents had passed the order rejecting a similar claim by the applicant on 18.9.91. He has, therefore, contended that the respondents ought to have also considered the applicant's case for similar action for regularisation as

(3)

Enquiry Clerk/LDC when his juniors were regularised in pursuance of the directions of the Tribunal in OA-712/91 decided on 5.5.93 and the Apex Court's order dated 29.7.94 in the same case, which they have not done. In this connection, applicant has submitted that he came to know of the regularisation of his juniors only on 4.7.1997 and thereafter he had submitted a representation on 8.12.97. The learned counsel has relied on Annexure A-9, which is a copy of the identity card issued to the applicant, showing his designation as Enquiry Clerk. He has, therefore, submitted that the respondents have always taken work from him as an Enquiry Clerk in CPWD and they cannot refuse to consider his case in the light of their consideration of the cases of his juniors for similar relief by rejecting his claim merely on the technical plea of limitation.

4. In this context, however, it is relevant to note that after the office order dated 18.9.91 was issued by the respondents in pursuance of the order of the Tribunal dated 30.5.91 in OA-2355/88, the Tribunal had rejected CCP-40/92 filed by the petitioner on 21.1.92. In this order it was stated that the directions issued on 30.5.91 have been complied with, the respondents have reconsidered the case and hence the CCP was dismissed. According to the applicant himself, he has been unemployed since 3.12.88. and he has claimed that the cause of action arose only on 4.7.97 when he came to know that his juniors have been regularised in service as Clerks. This OA has been filed in 1998. No indication has been given by either of the parties as to when applicant's juniors S/Shri Man Singh Rajput, Ramesh Chander, Ram Nath

Singh were regularised as Clerks in pursuance of the dismissal of the SLP by the Supreme Court on 29.7.94 though it must have been between 1994 and 1997, when applicant was no longer in service. No seniority list has also been given. In the facts of the case, the action of the respondents complying with the orders of the Tribunal and Supreme Court with regard to the other employees will not enable the applicant to get the reliefs he claims at this stage. His explanation<sup>for</sup> condonation of delay for this period fails, as we find no sufficient reasons under Section 21 (3) of the Administrative Tribunals Act, 1985. It is settled law that a person who does not pursue his remedies in time also loses his rights. (see Union of India v. R.C. Samanta JT 1993 (3) SC 418; Secretary to G.O.I. v. Sh. H. Gaikwad (1995) Supp. (3) SCC 231).

5. We have also seen the judgements relied upon by the applicant in K.K. Sharma & Ors. vs. Union of India & Ors. (1997 (6) SCC 721) and Guraghavan & Ors. case (OA-90/98, CAT Bangalore Bench dated 9.10.98) (Annexures A-13 and A-14) In the facts and circumstances of this case we are unable to say that the contention of the respondents that applicant's representation dated 2.12.97 is highly belated is incorrect. When the applicant himself states that he has been unemployed since 3.12.88, his claim that he is 'senior' or is similarly situated to those other persons mentioned above, who have been regularised as Clerks in pursuance of the order of the Supreme Court in July, 1994 is untenable. It would have been a different matter if the applicant had been continued in service on the relevant date in 1994 or thereafter when the respondents took action to regularise the other persons and those two cases will, therefore, not assist the applicant. In

the light of the settled law, it is also not possible to allow the OA only on sympathetic considerations that the applicant is poor but educated, as contended by his counsel.

19

6. In the result, for the above reasons, the application fails and is accordingly dismissed. No order as to costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

*S.R. Adige*  
(S.R. Adige)  
Vice-Chairman(A)

San.