

-A-

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2157 of 1997

New Delhi, this the 29th September, 1997.

Hon'ble Mr. N. Sahu, Member(A)

Darshan Lal
S/o Shri Ladha Ram
R/o Maternity & Child Welfare Centre
Guru Ram Das Nagar
(Laxmi Nagar)
Delhi-110 092

...Applicant

(By Advocate : Shri K.C. Mittal)

Versus

1. Government of India through
Secretary
Ministry of Urban Affairs & Employment
Nirman Bhawan
New Delhi

2. The Director of Printing
Directorate of Printing
Government of India Press
Nirman Bhawan
New Delhi

3. The Manager
Government of India Press
Faridabad - 121 001

...Respondents

ORDER

By Mr. N. Sahu, Member(A) -

Karavankh

This OA filed on 11.08.1997 challenges the order dated 08.07.1997 by Respondent No.3 conveying that the applicant's representations dated 13.08.1996 and 30.10.1996 addressed to Respondent No.1 for expunction of adverse remarks in his CR for the year 1992-93 are time-barred and the "earlier decision" dated 02.05.1994 (Annexure A-2) refusing to expunge "stands". The adverse remarks dated 28.05.1993 permitted thirty days' time to the applicant to submit his representation. The applicant claims to have made

representations dated 21.11.1994, 06.01.1995, 07.01.1996, 13.08.1996 and 30.10.1996 against the said order to Respondent No.1 who did not react to the first three, but dismissed the last two as 'time-barred'.

2. On the question of limitation, the learned counsel for the applicant, Shri K.C. Mittal argued that right to representation is a well-recognised right. As his representations were not considered on merits, Respondent No.1 has infringed that right. A government servant has also a well-recognised remedy to approach a superior authority for redressal of a grievance. The appeal to the Secretary, the highest head of the Department against the decision of Respondent No.2 was only made in pursuance of that available remedy. By dismissing the appeals on a technical plea, Respondent No.1 has closed the doors of justice and thereby violated the principles of natural justice.

3. The rules are that one appeal against the adverse remark can be submitted within one month from the date of receipt of the said communication. A review appeal can be preferred within a period of six months from the date of rejection of the appeal.

4. The applicant on 01.11.1994 requested the Respondent No.3 to inform him the name of the reporting officer for sending a review appeal to the Secretary, Ministry of Urban Affairs & Employment. He was informed on 14.11.1994 that the name of the

reporting officer could not be communicated to him as it was confidential. He thereafter filed an appeal on 21.11.1994 addressed to the Secretary, Ministry of Urban Development & Employment which was acknowledged by his Stenographer on the same date. He later on submitted further reminder letter dated 06.01.1995 and on other dates mentioned above.

5. Sh.K.C. Mittal, learned counsel for the applicant has explained the reasons for filing the OA so late. He stated that the applicant's earlier appeals have been ignored and Respondent No.1 has only taken note of the representations dated 13.08.1996 and 30.10.1996 and dismissed them as time barred.

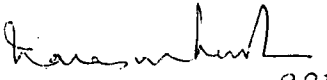
6. Every person affected by an adverse remark has one right of representation within one month and one right of review appeal within six months of the rejection of the representation. The first review petition dated 21.11.1994 was received on behalf of Respondent No.1 but was ignored. This petition should have been filed before 02.11.1994. The record shows that the applicant was very much alert about his rights as he availed of this remedy with a small delay after he was informed that the name of the reporting officer could not be disclosed to him. That apart, it is settled law that the rules governing writing of Confidential Reports and disposal of representations are directory and not mandatory. The applicant should not be shut out of substantial justice on account of a technical plea by way of a marginal delay. The Respondent No.1 was only guided by representations

dated 13.08.1996 and 30.10.1996 and the earlier representations were presumably not brought to his notice. I hold and direct that the earlier representation/review appeal can be accepted as validly filed and disposed of.

6. In the result, this OA can be disposed at the admission stage by issuing a simple direction to Respondent No.1. Respondent No.1, Secretary, Ministry of Urban Affairs & Employment, Nirman Bhawan, New Delhi should examine the representation dated 21.11.1994 and dispose of the same on merits within a period of eight weeks from the date of receipt of a copy of this order. For this purpose Registry is directed to communicate the order to Respondent No.1 enclosing this OA along with annexures. Needless to say the applicant is at liberty to invoke the jurisdiction of this Court if he is still aggrieved against any order disposing the review appeal.

The OA is disposed of as above at the admission stage.

rkv


(N. Sahu) 29.9.97
Member (A)