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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO. 2468/97

Thursday, this the 7th day of February, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

G.B.Pant
Ex.W.O. Air Force
S/O Late G.D. Pant
F/17, Khanpur Extension
Delhi -62

...Applicant

(Applicant in person)

Versus

1. Union of India
Secretary
Ministry of Communication Post
Bharat Sarkar,
New Delhi
2. Senior Superintendent
of Post Offices Nainital
Nainital (UP) - 263100.

...Respondents

(By Advocate: Shri S.M.Arif)

O R D E R (ORAL)

By Hon'ble Mrs. Lakshmi Swaminathan, VC (J):-

The applicant has filed this application along with MA-2403/97 for condonation of delay.

2. During the hearing, the applicant has frankly admitted that excepting for a short period when he was in Delhi at the time of filing of ^{the} application in the Principal Bench of the Tribunal, he normally resides at Haldwani, Uttranchal State.

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3. We have heard the applicant at length and Shri S.M. Arif, learned counsel for respondents and perused the documents on record.

4. The applicant has stated that he was engaged as Short Duty Staff w.e.f. 19.12.1983 to March, 1985. In the Affidavit annexed with MA-2403/97, the applicant has stated that he was engaged in the office of the Post Master, Haldwani as R.T.P. candidate of Postal Asstt. Cadre at the rate of Rs.2.75 per hour. His grievance is that when he returned to duty on 27.3.1985, he was not given the duty back and, hence, his services were terminated, which is the main grievance of the applicant in the present OA.

5. In the meantime, admittedly, the applicant had approached the Allahabad Bench of the Tribunal and the applicant himself has stated that the same was dismissed, although details of the OA and the order passed by the Allahabad Bench are not annexed by the applicant. Thereafter, it appears that the applicant had approached the Munsif, Haldwani, District Nainital in a Suit for declaration. He failed in that Court also against which he filed appeal to Civil Judge, Nainital, who, by a detailed order, dismissed the case on merits vide order dated 26.7.1997. Thereafter, the applicant has filed the present application in which the main relief prayed for is that the respondents should be directed to appoint him as Postal Assistant w.e.f. 19.12.1983 against a reserved vacancy meant for ex-service man and declare the order of

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the Post Master, Haldwani dated 27.3.1985 as null and void. When this OA was filed, the applicant has declared that he was 61 years and even at the time when the application was filed, he had crossed the age of superannuation applicable to Govt. of India's employees.

6. The applicant has also submitted at the Bar that he is normally residing in Haldwani. The fact that the applicant had earlier approached various Courts, including the Allahabad Bench of the Tribunal and other Courts in the State of U.P., now State of Uttranchal, as having jurisdiction is also relevant. In the facts and circumstances of the case having regard to the provisions of Rule 6 (1) of C.A.T. (Procedure) Rules, 1987, the application is also liable to be dismissed on the ground of bar of territorial jurisdiction of the Principal Bench of the Tribunal. Apart from that, on perusal of the MA praying for condonation of delay, we find no ground, let alone sufficient ground, to condone the delay of more than 12 years as the applicant has challenged the action of the respondents taken in March, 1985. The provisions of Section 29 (2) of the Administrative Tribunals Act, 1985 are also relevant, wherein it is provided, inter alia, that every suit or other proceeding pending before any court or other authority immediately before the date with effect from which jurisdiction is conferred on the Tribunal, stands transferred to the Tribunal. In any case, the Civil Judge, Nainital has also dismissed the applicant's prayer for similar reliefs after detailed

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examination and on merits vide order dated 26.7.1997, which cannot also be ignored. It is also relevant to note that the applicant himself has stated that he had also approached the Tribunal (Allahabad Bench) earlier and he has stated that the application was returned to him in the absence of an appointment letter. That position is valid even now as the applicant has again failed to produce any appointment letter, apart from the fact that the Principal Bench of the Tribunal is not sitting as a court of appeal against the order of Allahabad Bench of the Tribunal. According to us, the applicant is reagitating the same cause of action for which he had already approached the Allahabad Bench of the Tribunal and the same is, therefore, also barred by the principles of res-judicata.

7. In the circumstances of the case, we also find no good grounds to condone the delay under the provisions of Section 21 (3) of the Administrative Tribunals Act, 1985 and, the OA is also liable to be dismissed on this ground. From the reply filed by the respondents, we note that the applicant had made several representations to the respondents to regularise his services from the initial date of his engagement as Short Duty Staff which, according to them, was not admissible under the Rules and R.T.P. Scheme for which he was recruited. The respondents have submitted in their reply that they had already taken a decision in this matter on 15.1.1985 and again on 16.5.1985 which had been communicated to the applicant. Taking into account these facts, we find that the cause of action has arisen to

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the applicant way back in May, 1985 and the present application is, therefore, highly belated and barred by limitation. We have also considered the other contentions of the applicant, but do not find any merit in the same.

8. In the result, for the reasons given above, on the grounds of limitation, jurisdiction and on merits, the OA fails and is accordingly dismissed. No order as to costs.

SAT Rizvi

(S.A.T. Rizvi)
Member (A)

/sunil/

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)