

CAT/1
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THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 320/97

199

T.A. No.

DATE OF DECISION 22.4.98

Sh. Lachhman Rai & Ors

Petitioner

Dr. J. C. Madan

Advocate for the Petitioner(s)

VISUS.

Govt. of NCTD & Ors.

Respondent

Sh. Surat Singh

Advocate for the Respondent

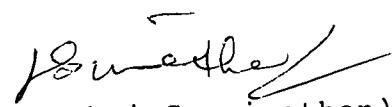
CORAM

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

The Hon'ble Sh. K. Muthukumar, Member (A)

1. To be referred to the Reporter or not? Yes No

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


(Smt. Lakshmi Swaminathan)

Member (J)

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

OA No.320/1997.

New Delhi this the 22 th day of April, 1998.

Hon'ble Smt.Lakshmi Swaminathan, Member(J)
Hon'ble Sh.K.Muthukumar, Member (A)

1. Sh.Lachhman Rai,
S/0 Sh.Sukh Lal Rai,
R/0 I-269,Chirya Colony,
IARI,Pusa, New Delhi-12.
2. Sh.Ram Sajjan,
S/0 Sh.Ram Nandan,
R/0 D-II/3, Chirya Colony,
IARI,Pusa, New Delhi.
3. Sh.Vishwa Nath Rai,
S/o Sh.Rameshwar Rai,
R/0 W-148,Todarpur,
New Delhi-12.
4. Sh.Surinder,
S/o Baleshwar Ram,
R/0 I-222,Chirya Colony,
IARI,Pusa, New Delhi-12.
5. Sh.Surinder Rai,
S/0 Shri Dewan Rai,
R/0 1-16, Chirya Colony,
IARI,Pusa, New Delhi-12.
6. Sh.Rajinder Kumar,
S/0 Sh.Jiwan Lal,
R/0 7898,Aara Kashan Road,
Ram Nagar, Paharganj,N/Delhi-55.

..Applicants

(By Advocate Dr.J.C.Madan)

VS

- 1.Govt.of NCT of Delhi,
through its Chief Secretary,
5,Sham Nath Marg,Delhi.
- 2.The Director General,
Home Guards Organisation,
CIT Complex, Raja Garden,
New Delhi.
- 3.The Commissioner of Police,
Delhi Police Headquarters,
I.P.Estate, New Delhi-2.

..Respondents

(By Advocate Sh.Surat Singh)

ORDER

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

The applicants are aggrieved by the order passed by the respondents dated 15.12.1994 (Annexure A.1) discharging them as Home Guards(HGs) in exercise of powers conferred under the Delhi Home Guards Rules, 1959(hereinafter referred to as 'the 1959 Rules').

YB:

2. We have heard Dr.J.C.Madan, learned counsel for the applicants at length and Shri Surat Singh, learned counsel for the respondents.

3. Dr.Madan, learned counsel for the applicants has submitted that the impugned order has been passed without complying with the provisions of the 1959 Rules as no show cause notice had been given to the applicants. He relies on the judgment of the Tribunal in Krishan Kumar Vs.NCT of Delhi.(OA 188/95) decided on 1.6.95.

4. Respondents in their reply have taken a preliminary objection that the case is hopelessly time barred as the applicants were discharged as Home Guards in 1994. This O.A. has been filed on 20.2.97. Applicants have filed MA for condonation of delay in which they have submitted that they have been making several oral and written representations to the respondents for reinstatement in preference to outsiders and persons junior to them appointed subsequently. Dr.Madan, learned counsel has submitted in reply that since the applicants are hopelessly poor persons and have been unjustly and illegally deprived of their means of livelihood by the impugned orders dated 15.12.1994, the Tribunal may be pleased to condone the delay. He has also submitted that this is a case of continuous cause of action, as persons junior to the applicants still remain engaged and that the impugned order having been illegally passed gives a right to the applicants to file the application even if it is delayed.

5. After hearing the case, Dr.Madan, learned counsel had sought some time to submit the references of relevant cases. This was allowed and he has submitted a list of cases decided by the Tribunal on which he relies for condonation of delay, which is placed on record.

6. We have carefully considered the submissions made by the learned counsel for both the parties including the relevant cases on limitation, and the pleadings.

J.S.

7. In the facts and circumstances of the case and having regard to the catena of judgements of the Hon'ble Supreme Court (For example, S.S.Rathore Vs.State of M.P.(AIR 1990 SC 10, UOI Vs.Ratan Chander Samanta (JT 1993(3)SC 418, Hukam Raj Khinsvara Vs.UOI & Ors.(JT 1997(4)SC 193, Secretary to GOI Vs. M.Gaikwad (1995)Suppl.(3)SCC 231, Ex Capt.Harish Uppal Vs.UOI (JT 1994(3)SC 126 and Bhoop Singh Vs.UOI(JT 1992(3)SC 322), we are not satisfied that the reasons given in the MA are sufficient for condoning the delay. In this case the delay has been for a period of more than 2 years and it is settled law that repeated representations do not extend the period of limitation. The contention that this is a case of continuous cause of action is also baseless, as this contention if accepted, will render the statutory rule of limitation provided under Sections 20 and 21 of the Administrative Tribunals Act, nugatory. The Supreme Court in Rattan Chander Samanta's case (supra) has held as follows:-

" Delay deprives the person of the remedy available in law. A person who has lost his remedy by lapse of time loses his right as well."

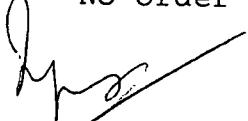
In this case the petitioners were casual labourers who were employed in Railways earlier but the petition was dismissed by the Supreme Court. Under Section 21 of the Administrative Tribunals Act.1985, the application ought to have been filed within one year from the date of the impugned order, or within a further period of 6 months thereafter where a representation has been made/ ^{when no final order has been passed.} No satisfactory reasons have been given in this case to condone the delay in filing the application and the contention of the respondents that the case is hopelessly time barred is sustained. Having regard to the facts of the case and the settled position of law as held by the Hon'ble

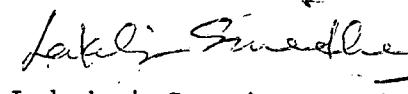
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Supreme Court in the cases referred to above, the application is barred by limitation and the case relied upon by the applicants will not assist them.

8. In the result, for the reasons given above, the application fails and is dismissed.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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