

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 792/97
T.A. No.

199

(12)

DATE OF DECISION 6.3.98

Sh. Bhagwan

Petitioner

Sh. B. S. Mor

Advocate for the Petitioner(s)

Versus

The State of Delhi through the
Secretary of Edn. and ors.

Respondent

Sh. Surat Singh

Advocate for the Respondent

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 *X*

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

(13)

Central Administrative Tribunal
Principal Bench

O.A. 792/97

New Delhi this the 6th day of March, 1998.

Hon'ble Shri S.R. Adige, Vice Chairman(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Bhagwan,
S/o Shri Shiv Charan,
R/o 8, Sahipur Village
Shalimar Bagh,
Delhi-52.

... Petitioner.

By Advocate Shri B.S. Mor.

Versus

1. The State of Delhi through
The Secretary of Education,
Old Secretariat,
Delhi.

2. The Director of Education,
Old Secretariat,
Delhi.

3. The Deputy Director,
Distt. West, New Motinagar,
New Delhi.

... Respondents.

Shri G.S. Adhikari, Principal, Deptt. Representative.

(By Advocate Shri Surat Singh who appeared later on)

O R D E R

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

The applicant is aggrieved by the fact that the respondents have not paid him salary for the period from 20.3.1992 to 20.1.1993 and termination of his services which he claims is absolutely illegal, unlawful and against the principles of law for no fault of his.

2. We have heard Shri B.S. Mor, learned counsel for the applicant and Shri G.S. Adhikari, departmental representative, who was present in court. By Tribunal's order dated 4.11.1997 it was ordered that the reply should be brought on record although it appears that the copy of the

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same had been handed over to Shri Mor, learned counsel for the applicant. It is, however, noted that no counter reply has been filed by the respondents and, therefore, none has been placed on record.

3. The brief facts of the case are that the applicant was appointed by the respondents as Trained Graduate Teacher (Sanskrit) by order dated 18.1.1991 which he states is based on the decision of the Supreme Court in Civil Appeal No. 1990/87. He was posted in Government Boys Senior Secondary School No. 1, Modipur, West Distt. Delhi on 22.1.1991. The applicant states that he was asked to undergo the medical examination for which he reported at Civil Hospital, Rajpur Road, Delhi on 19.2.1991. He was declared medically unfit by the Staff Surgeon. He was duly informed of this fact that he was medically unfit by Memorandum dated 7.3.1991 in which it was also mentioned that he may file an appeal within one month from the date of issue of the letter, failing which his services will be terminated. According to the applicant, he filed an appeal on 30.3.1991. The learned counsel for the applicant has submitted that since the disease for which the applicant had been considered medically unfit, namely, Tuberculosis, was curable, he ought to have been retained in service and paid salary for the period from 20.3.1992 to 20.1.1993.

4. The departmental representative has submitted that the applicant was not entitled to any pay during the aforesaid period as he did not work during that time.

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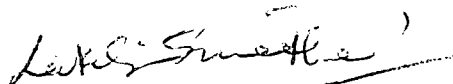
5. The applicant has also filed MA 879/97 praying for condonation of delay which we will consider in the first instance. He has submitted that he could not file the O.A. earlier as he was hoping that the respondents would themselves grant the relief and he had made several representations in this regard. Another ground given is that the applicant had filed this O.A. in the Registry in March, 1996 which was returned with certain objections, and because of one Shri Bhagat Singh who was then employed as Clerk of counsel for the applicant, there has been further delay. For these reasons, he has prayed that the delay in filing the O.A. may be condoned.

6. In **State of Karnataka Vs. S.M. Kotrayya** (1996 SCC (L&S) 1488), the Supreme Court has held that what was required in such cases is that the applicants are required to give an explanation under sub-sections (1) & (2) of Section 21 of the Administrative Tribunals Act, 1985 as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed therein to the satisfaction of the Tribunal. We have considered the above grounds and we find that they are not sufficient for condoning the delay of more than 3 years. From the averments of the applicant himself, it is clear that the applicant had filed this O.A. only in March, 1996 i.e. nearly 3 years after the cause of action has arisen and it is, therefore, barred by limitation under Section 21. It is also settled law that repeated representations will not extend the period of limitation. (See the observations of the Supreme Court

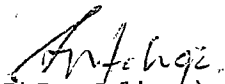
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in **S.S. Rathore Vs. State of M.P.** (AIR 1990 SC 10). The cause of action in this case has arisen as far back as January, 1993 and this application has been refiled only on 4.4.1997. In the circumstances, 'M.A. for condonation of delay is rejected as the explanation advanced is not satisfactory.

7. For the reasons given above, this application suffers from laches and delay and is barred by limitation and is accordingly dismissed. No order as to costs.



(Smt. Lakshmi Swaminathan)
Member(J)



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

'SRD'