

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 925/1997

New Delhi this the 8th day of September, 2000

Hon'ble Mr.Justice V.Rajagopala Reddy, Vice Chairman(J)
Hon'ble Mrs.Shanta Shastry, Member(A)

Sh.Kaftar Singh
S/O Late Sh.Jage Ram working
as UDC under Respondent 2
resident of Qr.No.698,Sector-12,
R.K.Puram, New Delhi.

.. Applicant

(By Advocate Sh.T.C.Agarwal)

Versus

1. Chief Secretary,
National Capital Territory of Delhi,
Sham Nath Marg, Delhi-6

2. The Commissioner
Food Supplies and Consumer Affairs,
K-Block, Vikas Bhawan,
New Delhi.

.. Respondents

(By Advocate Sh.Ashwini Bhardwaj proxy
counsel for Sh.Rajan Sharma)

ORDER (ORAL)

Hon'ble Mr.Justice V.Rajagopala Reddy, VC(J)

Heard the learned counsel for the applicant and the
respondents.

2. In this OA, the departmental enquiry was instituted
against the applicant under Rule 14 of the CCS(CCA) Rules, 1965
and he was awarded punishment of reduction to lower post i.e.,
from UDC to LDC for a period of two years and after restoration
to the post he would be entitled to his seniority and pay
and in exercise of the powers under Rule 10 of the CCS(CCA)
Rules, 1965 the order of suspension was also revoked by the
impugned order dated 11.1.1995. The applicant has filed an
appeal on 24.2.1995 which according to the applicant was not
disposed of, hence he filed the present OA.

9

2. A preliminary objection has been taken by the learned counsel for the respondents that the OA was barred by limitation. As it is not filed within the period of limitation under Section 21 of the Administrative Tribunals Act 1985, from the date of impugned order the same should be dismissed in limine.

3. Learned counsel for the applicant, however, submits that since the appeal was not disposed of he was entitled to await the disposal of the appeal to file the OA and in fact it was filed only after the disposal of the appeal.

4. Section 21(a) and (b) of the Act reads as follows:-

"

- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months

Section 21 (a) and (b) make it clear that the OA should be filed within a period of one year from the date of expiry of 6 months of filing an appeal against the final order. It is not in dispute that the impugned order was the final order as mentioned in clause (a) of sub-section (2) of Section 20 and that an appeal was filed against that order. Hence the applicant could wait for disposal of the appeal filed by him only for a period of 6 months and thereafter the limitation

starts and the OA should have been filed within one year from that date. Since the appeal was filed on 24.2.1995, he could wait only upto August, 1995 and within one year thereafter i.e. by August, 1996 he should have filed the OA but it was filed on 21.4.1997. Thus the OA is, therefore, clearly barred by limitation. As no MA has been filed for condonation of delay the question of explaining delay by sufficient good grounds also does not arise. 20

5. It is now brought to our notice that appeal was disposed of 20.12.1996 and it has been communicated to the applicant. Since the limitation expired by August, 1996 the disposal of the appeal will not give him fresh cause of action. It is also seen that OA is also not filed against the appellate authority order. In the circumstances, OA liable to be dismissed on limitation as against the order of punishment dated 11.1.1995.

6. However, in the amended OA it is stated that by way of addendum dated 1.7.97 to the order dated 12.1.1995, which has now become final, the Commissioner of Food and Supplies Department further ordered that nothing shall be paid to the applicant over and above the subsistence allowance already allowed to him and the period spent under suspension shall count as dies-non. By this addendum the entire period of suspension is treated as dies-non. Unless the period of suspension, as per rules, is regularised the applicant is not entitled to any pay and allowances during that period which has now been done stating that he was not entitled for any pay and allowance i.e. dies-non.

CR

We do not find any error in it. In the circumstances, OA

is dismissed on the grounds of limitation and the applicant is
not entitled for any relief. In the circumstances, no costs. (21)

sk
(Mrs. Shanta Shastray)
Member (A)

Ch. Venkateswara
(V. Rajagopala Reddy)
Vice Chairman (A)

sk