

Central Administrative Tribunal
Principal Bench, New Delhi.

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O.A.No.799/94

New Delhi this the 7th Day of April, 1995.

Hon'ble Shri B.K. Singh, Member(A)

Smt. Urmila Sharma,
W/o late Sh. Mehar Chand Sharma,
R/o 766-E, Lohia Gali No.2,
Babarpur, Shahdara,
Delhi.

Applicant

(through Sh. R.A. Vashisht, advocate)

versus

General Manager,
Northern Railway,
Baroda House,
New Delhi.

Respondent

(through Sh. R.L. Dhawan, advocate)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)-

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed after removing the objections on 19.4.94. The application shows that the deceased husband's services were terminated in September, 1967. The present application filed by her as the legal heir in 1994 seeks relief for payment of settlement dues of her husband from September, 1967. On 21.3.1995 when the case came up for hearing on admission, the learned counsel for the respondents raised the question of limitation and the learned counsel Sh. R.A. Vashisht appearing for the applicant was specifically asked to satisfy the court regarding the period of limitation involved in the present application. He undertook to satisfy the court today. During the course of the arguments, he referred that this Tribunal is vested with powers under Article 136 of the Constitution and under that power this Tribunal can condone the delay and adjudicate on the issues involved in this O.A. on merits. The Hon'ble Supreme Court in

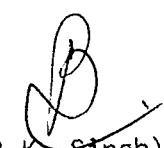
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case of State Bank of India & Ors. Vs. Samarendra Kishore Endow & Anr. reported in JT 1994(1) SC 217 have categorically stated in paras 10 to 15 that the High Court or the Tribunal has no jurisdiction to impose any punishment to meet the end of justice. It is only Supreme Court which can exercise the equitable jurisdiction under Article 136 of the Constitution and the High Court and Tribunal has no such power or jurisdiction. The power vested in the Hon'ble Supreme Court under Article 136 which was quoted by the learned counsel for the applicant today is not vested in the Tribunal and as such it cannot exercise that power at all.

The Hon'ble Supreme Court in a catena of judgements have held that the party aggrieved by an order has to approach the court for relief on declaration that the order against him is inoperative and not binding upon him within the prescribed period of limitation, since after the expiry of the statutory time limit, the court cannot give the declaration sought for. The Administrative Tribunals Act, 1985 has laid down the statutory period of one year if no representation has been filed against a grievance arising to him and one and a half years period if a representation has been filed, whether replied or not, is immaterial and the aggrieved party has to approach this Tribunal within 1 1/2 years. This is the statutory time limit prescribed under Section 21 of the Administrative Tribunals Act, 1985. This has been held in case of State of Punjab Vs. Gurdev Singh reported in 1991(4) SCC 1. The learned counsel for the applicant said that the applicant is an

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illiterate woman and she has been approaching the respondents from 1967 onwards. In view of the fact that the Tribunal is only vested with the limited power of condonation of delay under Section 21 and it is barred from taking any cognizance of any grievance arising out of an order prior to 1.11.1982, this application is highly belated and barred by delay and laches. Repeated unsuccessful representations have not been provided by law and as such they do not enlarge the period of limitation as has been held by the Hon'ble Supreme Court in case of S.S. Rathore Vs. State of M.P. reported in AIR 1990 SC 10. In the latest judgement, where a similar matter was involved in case of Ratam Chander Samanta reported in JT 1993(2) SC 418. The Hon'ble Supreme Court has held that delay and laches defeat a right and if the right is defeated, the remedy available in law is also lost. Therefore, this Tribunal cannot entertain this application being barred by delay and laches and ~~the~~ ^{rejection of the plea to the} Tribunal ~~is~~ ^{is} vested with powers under Article 136 of the Constitution as argued by the learned counsel for the applicant. The application is dismissed in limni at the admission stage itself but without any order as to costs.


(B.K. Singh)
Member(A)

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