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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

DA No.2335 of 89

New Delhi, dated this 19<sup>th</sup> day of October, 1994.

HON'BLE MR. B.K. SINGH, MEMBER (A)

Mr. M.C. Dhingra,  
S/o late Shri A.D. Dhingra,  
Age 74 years, IRTS 'D.C.S.',  
Northern Railway (Retd.)

4, Dr. Garoli Road,  
Meerut. ... Applicant.

By Advocate: Shri M.C. Dhingra.

Versus

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

... Respondent.

By Advocate: Shri R.L. Bhawan.

U R D E R

Hon'ble Mr. B.K. Singh.

This O.A. is not directed against any specific order passed by the respondent. We do not have before us any order either admitting claim of the applicant or denying the same at any point of time issued by the respondent.

2. The brief facts are that the petitioner was selected as a Railway Magistrate by Government of U.P. He joined under the Divisional Superintendent, Northern Railway, Moradabad on 30.1.1948. He remained there from 30.1.48 to November 1950. He worked in Meerut in the same capacity from November 1950 to December 1953. He was transferred

(B)

to Jhansi in the same capacity and worked there from December 1953 to 21.2.1957, under DCS Jhansi. He was selected by the UPSC as a T.T.C.D. (IRTS) Officer and he joined on 22.2.57. The petitioner served as a temporary Class I Officer in Northern Railway in various capacities and was confirmed in that post. The petitioner was posted as DCS Northern Railway, DS Office, New Delhi and he retired from there on 1.2.1973 afternoon. In this petition he claims that his service for the period from 30.1.48 to 21.2.57 when he worked under UP Government should be counted by the Central Government for all purposes.

3. The matter came up for hearing on 29.7.94 and on that day the respondent filed an additional copy of the affidavit. The learned counsel for the applicant sought adjournment on the ground that he was furnished with a copy of the affidavit only on 5.7.1994. Since then he has been seeking the adjournment for filing the rejoinder to the additional affidavit. But the same has not been filed. The case came up for final hearing on 10-10-94 and the learned counsel for the respondent Shri R.L. Bhawan concluded his arguments on behalf of the respondents. But in the interest of justice, the case was listed as part heard for 11.10.94. Even today, no one has appeared on behalf of the applicant.

4. This is an old matter and therefore, I have decided to dispose of it on the basis of pleadings on record.



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5. It is admitted that the claim relates to the counting of the period from 30.1.48 to 21.2.57. The Chief Secretary, U.P. has been made a party and no reply has been filed inspite of the service of notice on him. The application is hit by delay and laches ~~xxxxxxxxxxxx~~ ~~xxxxxxxxxxxx~~ ~~xxxxxxxxxxxx~~ since the claim relates to the period 30.1.48 to 21.2.57. It is not a transferred application from the High Court or from any competent forum to this Tribunal. This application No.2335 was filed in 1989 claiming the benefit of service for the period 30.1.48 to 21.2.57. The Tribunal is not competent to adjudicate on matter prior to 1.11.1982 i.e. 3 years before the establishment of the Tribunal under the CAT Act, 1985. It is also admitted that the applicant retired from service on 1.2.73 and his retirement is practically 11½ years before the establishment of the Tribunal. He could have agitated his grievance in a competent forum. The Hon'ble Supreme Court in the case of State of Punjab vs. Gurdev Singh (1991) 4 SCC 1 have held that the party aggrieved by an order has to approach the court for relief and declaration that the order against him is in-operative, 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. In AIR 1986 (1) CAT 403 B.K. Mehra, Secretary, Ministry of I&B - Petitioner, it has been held that the Administrative Tribunal Act does not vest any power or authority to take cognisance of a grievance arising out of an order made prior to 1.11.1982. The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievances in respect of an order made within 3 years of the constitution of the

Tribunal. In the present case neither there is an order from the respondent admitting the claim or rejecting the claim. No grievance can arise unless the claim is either rejected or it is admitted partially. In the case of S.S. Rathore vs. State of M.P. AIR 1990 SC 10 it has been held that the cause of action shall be taken to arise on the date of the order. Here there is no order whatsoever against which this application has been filed. Neither there is an appeal nor there is a representation to the higher authorities. The matter has been straight away brought to the Tribunal for adjudication. This is not provided for under the ~~xx~~ Rules of the CAT Act. The same ratio was reiterated in the case of Ghosh Singh vs. Union of India JT 1992 (3) SC 322. The cause of action has to be reckoned with from the actual date.

6. The application is dismissed as one hit by delay and laches and not falling within the jurisdiction of the Tribunal ~~xxxxxxxxxxxxxxxxxxxxxx~~, since the applicant retired in 1973 and his claim relates to 30.1.48 to 21.2.57. On these grounds alone, the OA is dismissed leaving the parties to bear their own costs.

  
(B.K. SINGH)  
MEMBER (A)

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