

Date of decision: 21st Feb. 90

O.A. No. 400/89
Mrs. Anita Devi ... Applicant

O.A. No. 401/89
Mrs. Kanta ... Applicant

O.A. No. 402/89 ✓
Mrs. Kanchan Devi ... Applicant

Vs.

Union of India & Ors. ... Respondents.

CORAM:

Hon'ble Mr. T.S. Oberoi, Member (Judicial).

Hon'ble Mr. I.K. Rasgotra, Member (Administrative)

For the applicants: ... Ms. Meera Bhatia, counsel
Mr. Sharad Trivedi,
counsel.

For the respondents: ... Mr. M.L. Verma, counsel.

JUDGMENT.

(delivered by Hon'ble Mr. T.S. Oberoi, Member).

Original applications No. 400/89, 401/89
under Sec. 19 of the AT Act, 1985,
and 402/89 have been filed/by Mrs. Anita Devi, Mrs.
Kanta and Mrs. Kanchan Devi, applicants, seeking to
quash the impugned orders by which their services
have been terminated. These applications have
identical facts and call in question the impugned
order on the same grounds. Therefore, it would be
convenient and apt to dispose of these applications
by a common order. Accordingly, we proceed to
deal with the contentions raised by the rival parties
as under.

2. These applicants will hereinafter be

described as applicant No. 1, applicant No. 2 and applicant No. 3 respectively, for the sake of convenience. Applicant No. 1 was appointed as Nursing Attendant on daily wages in Dr. Ram Manohar Lohia Hospital, New Delhi, with effect from 3.5.1981, while applicant No. 2 was so appointed in the said Hospital with effect from 1.6.1983. Applicant No. 3 was appointed as Aya in a temporary capacity in the aforesaid hospital in May, 1982. The services of applicants No. 1 & 2 were terminated by an order passed by the Chief Administrative Officer, in Dr. RML Hospital, (Annexure I). This order is dated 12.7.1986.

Applicant No. 3 was removed from service by an order dated 20.3.1985 passed by the same authority as in the cases of other two applicants. Though applicant No. 3 has alleged in the application that her services were terminated on the ground that she did not pass requisite educational qualification for the post of Aya but the impugned order is silent about the reasons which prompted them to remove the applicant from service.

3. The applicants have challenged the impugned order of termination of their services on various grounds.

The respondents have opposed their prayer by filing counter affidavit and the applicants have filed their rejoinder.

4. The first question that needs to be examined in these applications relate to the belated filing of these applications in this Tribunal. The applicants have admitted this fact and, therefore, have filed Misc. petitions seeking condonation of delay. The respondents have contested their prayer in this regard by raising serious objection to the delay with which these applications have been filed.

13

5. We have heard the learned counsel for the respective parties on the question of limitation and gone through the documents placed before us, as also the the various judgments cited by them to buttress their respective cases. Applicants 1 and 2 admit that they have filed the applications with a delay of one year, 7 months and three days while applicant NO. 13 has self her stated that there is a delay of 2 years, 10 months and some days in filing the application. They have explained this delay by stating that they had made representations to Ministers and some Members of Parliament and they were waiting in the hope that their requests would eventually be accepted. They have further contended that when they approached the authorities in the Hospital for their reinstatement, they were assured that their cases would be decided in the light of the judgment of this Tribunal in O.A. No. 557/86 filed by Shri Kailash Chand, whose services were terminated by the authority which has passed the termination orders of the present applicants. The applicants assert that the facts are quite identical in the case filed by Shri Kailash Chand and the present applications. They have therefore prayed that they should also be given the same benefit as given in the case of Shri Kailash Chand, whose termination has been quashed by

this Tribunal by a judgment of another Bench of the Principal Bench of this Tribunal, delivered on 20.12.1988.

The learned counsel for the applicant has placed reliance

on the judgment of the Supreme Court in the case of

Collector of Acquisition, Anantnag & another VS. Mst.

Katiji & Ors. - AIR 1987 SC 1353, in which it has been

held that the Legislature has conferred the power to

condone delay by enacting 55 of the ILA of 1963 in order to

enable the courts to do substantial justice to parties by

disposing of the matters on merits. The expression 'sufficient

cause' employed by the Legislature is elastic to enable the

court to apply the law in a meaningful manner which subserves the ends of justice. The further contention of the applicants is that the delay was not wilful or intentional. The respondents have resisted the contentions of the applicants by pressing into service the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985. They have denied that the constitutional provisions have been violated by their refusal to revoke the termination order, as prayed for by the applicants.

6. Section 20 of the Administrative Tribunals Act enjoins that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Section 21 of the Act, in so far as it is relevant, reads as under:-

"21- Limitation - (1) A Tribunal shall not admit an application,

(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.

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7. It is manifest from a plain reading of the above extracted provisions of Section 21 of the Act that the powers of this Tribunal are fettered in entertaining applications which are filed after one year from the date on which the cause of action arose. In accordance with Section 21 (1) (b), as quoted above, the applicants should have moved this Tribunal within one and a half year from the

15

date of submission of any appeal/representation against the impugned order to the competent authority. The applicants have explained that they had approached some Hon'ble Ministers/Members of Parliament to redress their grievances and were waiting in the hope that some tangible decision in their favour would be taken. Another explanation tendered by the applicants for the delay in moving this Tribunal is that the authorities in the Hospital, who were approached by them, assured the applicants that their cases would be decided in the light of the judgment in the case of Shri Kailash Chand. The applicants have not placed on record any communication in writing in which the Hospital authorities extended the assurance, as mentioned above, rather they filed the present O.As after about a month of their representation sent on 22.1.1989 in the first two cases, and on 12.1.1989 in the third case, to respondent No. 2. In these circumstances, we are of the view that the applicants are not entitled to claim the benefit of the judgment in the case of Shri Kailash Chand.

In the light of the provisions of Section 21 of the Administrative Tribunals Act, 1985, which put

embargo on entertaining applications beyond the period stipulated therein, we of the view that the applications filed are barred by limitation and are, as such, not maintainable. We, therefore, dismiss these applications,

barred by limitation. There will be no order as to costs.

(I.K. Rasgotra) 2/2/90
Member (A)

(T.S. Oberoi)
Member (J)



BE TRUE COPY
Date: 2/3/90
Section Officer
Central Administrative Tribunal
Principal Bench, Faridkot House
New Delhi