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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

REGN. NO. O.A.1356/88

DECIDED ON: 26.7.88

SH. BHAGWAN SAHAI, SELECTION GRADE AUDITOR, OFFICE OF
CONTROLLER OF DEFENCE ACCOUNTS, WESTERN COMMAND,
SECTOR 9C, CHANDIGARH(UT).....Applicant

VERSUS

1. CONTROLLER GENERAL OF DEFENCE ACCOUNTS,
WEST BLOCK 5, R.K.PURAM, NEW DELHI.
2. DEPUTY CONTROLLER OF DEFENCE ACCOUNTS,
WESTERN COMMAND, SECTOR 9C, CHANDIGARH.....Respondents

CORAM :- HON'BLE MR.JUSTICE J.D.JAIN, VICE CHAIRMAN.
HON'BLE MR.KAUSHAL KUMAR, MEMBER.

Present: MS. LILLY THOMAS, ADVOCATE, FOR THE APPLICANT.

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This application Under Section 19 of the
Administrative Tribunals Act, 1985 has been made by
the applicant who is working as Selection Grade
Accountant in the office of Controller of Defence
Accounts, Western Command, Chandigarh, challenging

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the legality and validity of the order of the disciplinary authority, viz the Controller of Defence Accounts, Eastern Command, Meerut who vide order dated 6.10.78 (Annexure A-7) awarded the "penalty of with-holding of increment for 3 months which will not have the effect of postponing future increments" to the applicant. This penalty was imposed on the applicant pursuant to a disciplinary proceedings held against him.

2. The learned Counsel for the applicant was asked as to why this application has been moved after the expiry of more than 9 years of the passing of the impugned order. Her explanation is, that a copy of the report of the inquiry officer was not furnished to the applicant along with the impugned order pursuant to the Requirement of Rule 17 of the CCS (CCA) Rules, 1965 read with Rule 16(2) thereof. No doubt the said Rule requires that any order of penalty imposed by the competent authority shall be communicated to the concerned Government servant along with a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority. So her contention is this that there was no service of the order on the applicant in the eyes of law. In our view, if this argument is taken as correct, this application may still be premature because no cause of action so far has arisen to the applicant. However, ^aon further question, whether an appeal was filed against the impugned order by the applicant, the reply was in negative and the reasons for not filing the appeal is also stated to be same viz. that

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for want of report of inquiring authority, no appeal could be filed. We are afraid that this contention of the counsel for the applicant has no legs to stand upon for the simple reason that the cause of action accrued to the applicant on the receipt of the impugned order, which is dated 6th October, 1978 (A-7). As provided under CCS (CCA) Rules, the applicant should have preferred an appeal to the appellate authority inter alia complaining about the non-supply of the report of the inquiring authority. Indeed, that would have been per se a good ground for challenging the order before any court of appeal, but for the reasons best known to the applicant, he did not file any appeal against the impugned order, and it was only vide letter dated 6.5.87 (Annexure A-8) that he complained to the Controller General of Defence Accounts, New Delhi that a copy of the inquiry report be supplied to him to enable him to file an appeal. Obviously the applicant slept over the matter for nearly 9 years. The punishment having been implemented and his promotion being no longer with-held, there seems to be no ground for challenging the impugned order at such a belated stage.

3. Under Section 21 of the Administrative Tribunals Act, 1985 a Tribunal shall not admit an application, where the application U/S 19 is made after the expiry of one year from the date of the final order. In the instant case final order was made as back as in 1978 and it remained unchallenged. Moreover under sub section (1) of Section 21 of the Act if the grievance pertains to a cause of action


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which took place within three years preceding the coming into the existence of the Tribunal, such an order could be challenged only within six months of coming into existence of the Tribunal or within one year of the final order which ever is later. No explanation for not seeking redress in a Court of competent jurisdiction or for not coming to this Tribunal within the prescribed period is forth coming. Hence this application is dismissed being hopelessly time-barred. However, we direct the appellate authority to pass appropriate order in accordance with law on the representation made by the applicant (Annexure A-8) within two months from ~~today~~. the receipt of a copy of this order.


(KAUSHAL KUMAR)
Member


(J.D. JAIN)
VC

July 26, 1988

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