

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 235 1988
~~Text No.~~
(M.P.NO.478/1988)

DATE OF DECISION 11-5-1988

Shri A.D.Kalra and others. Petitioner

Shri T.C.Agarwal, Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri P.H.Ramchandani, Senior Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.S.Puttaswamy, Vice-Chairman (J)

The Hon'ble Mr. Kaushal Kumar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? NO
3. Whether their Lordships wish to see the fair copy of the Judgement? NO
4. Whether to be circulated to all the Benches? NO

kaushal
(KAUSHAL KUMAR)
MEMBER(A)

K.S. Puttaswamy
(K.S. PUTTASWAMY)
VICE-CHAIRMAN. 11-5-88

(Judgment of the Bench delivered by Hon'ble
Mr. Justice K.S.Puttaswamy, Vice-Chairman)

JUDGMENT

This is an application made by the applicants under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. Prior to 1-4-1976, there was a unified department of Audit and Accounts. But, from 1-4-1976 the same was bifurcated into two departments called as 'Audit' and 'Accounts' wing. From 1-4-1976, the applicants are borne on the accounts wing.

3. For different periods that are detailed in Annexure-A1, Part-B "Details of Applicants' service", the period of claims of the applicants are set out therein. Their claim is that their pay or salary should be stepped up to the level of their immediate juniors. An examination of those claims shows that the grievances of all the applicants arose in 1978. But, notwithstanding the same, one of the representations made by one of the applicants, Shri A.D.Kalra for extending the benefits extended to one Shri B.L.Bajaj, was rejected by Government on 18-11-1987 (Annexure-A5) for the reasons stated in that order.

4. On an earlier occasion, the applicants made an application under Section 21 of the Act for condonation of delay, on which notices were issued to the respondents and in response to the same, the respondents have entered appearance through Shri P.H.Ramachandani, senior Counsel.

5. Shri T.C.Agarwal, learned counsel for the applicants contends that the grievances of the applicants were

were really rejected by Government on 18-11-1987 and computing the period of limitation from that date, this application was in time and that the applicants who were similarly situated to Shri Bajaj referred to in the order dated 18-11-87, were entitled for the very reliefs extended to him on the fixation of their pays for the periods detailed in Annexure-A1 part-B.

6. Sri Ramchandani contends that the grievances of the applicants arose in 1978 or well before 1-11-1982 and, therefore, this Tribunal had no jurisdiction to entertain this application as ruled in V.K.MEHRA v. THE SECRETARY, MINISTRY OF INFORMATION AND BROADCASTING (ATR 1986 CAT 203) and R.L. BAKSHI v. MINISTRY OF DEFENCE (ATR 1988(1)CAT 149).

7. An examination of the claims of the applicants as set out in Annexure-A1 part-B and their prayer shows that their grievances or claims arose in 1978 well before 1-11-1982. Whether a grievance or claim that arose prior to 1-11-1982 can be entertained or not under the Act is no longer res-integra. On this very question in Mehra's case, a Division Bench speaking through Hon'ble Mr. Justice K. Madhava Reddy, Chairman, to which one of us (Shri Kaushal Kumar, Member) was a party expressed thus:

".....The Administrative Tribunals Act does not vest any power or authority to take cognizance of a grievance arising out of an order made prior to 1-11-1982. The petitioner requests that the delay in filing this application be condoned. But, the question is not at all one of condoning the delay in filing the petition. It is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1-11-1982.

3. In Regn.No.T.34/85 Capt.Lachhman Singh v. Secretary, Ministry of Personnel and Training, we held -

"The period of three years laid down under sub-section (2) of Section 21 would have to be computed with reference

reference to any order made on such a representation and not with reference to the earlier order..... The Tribunal would have jurisdiction under sub-section (2) of Section 21 to entertain an application in respect of "any order" made between 1-11-1982 and 1-11-1985.".

The limited power that is vested to condone the delay in filing the application within the period prescribed is under Section 21 provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal. Though the present petition is filed within six months of the constitution of the Tribunal in respect of an order made prior to 1-11-1985 as contemplated by sub-section (3) of Section 21, since it relates to a grievance arising out of an order dated 22-5-1981, a date more than 3 years immediately preceding the constitution of the Tribunal, this Tribunal has no jurisdiction, power or authority to entertain the petition".

This enunciation has been consistently followed by all the Benches of the Tribunal. In Bakshi's case a Division Bench of this Tribunal reiterated the same and expressed that repeated representations and rejections will not in any way affect what is concluded prior to 1-11-1982. On the ratio of these rulings, this application that seeks to agitate grievances that arose prior to 1-11-1982 cannot be entertained by this Tribunal.

8. When once we find that there is a bar to entertain this application, the question of our examining the merits and the various rulings touching on the same does not arise. We also find that the case of Shri B.L.Bajaj and others Vs. Union of India (ATR 1987(2) CAT 460) was a transferred petition from the Delhi High Court where the question of limitation under the Act did not arise. If that is so, then the decision rendered in that case does not help the applicants to overcome the bar created by Section 21 of the Act.

9. In the light of our above discussion, we hold

hold that this application is not maintainable and is liable to be rejected. We, therefore, reject this application as not maintainable. But, in the circumstances of the case, we direct the parties to bear their own costs.

K. Kumar

(KAUSHAL KUMAR)
MEMBER(A)
11-5-1988

K. S. Puttaswamy
(K.S.PUTTASWAMY) *11-5-1988*
VICE-CHAIRMAN