

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

MP 1414/88
OA 1221/88.

November 16, 1988.

Shri Balak Ram Verma Applicant.
Vs.
Union of India & Anr. Respondents.

Coram:

Hon'ble Mr. P.K.Kartha, Vice-Chairman.
Hon'ble Mr. P.Srinivasan, Member (A)

For the applicant ... Shri Sanjiv Kumar, counsel.
For the respondents ... Shri P.H. Ramchandani, Sr.
counsel.

(Order of the Bench delivered by Hon'ble
Mr. P.Srinivasan, Member (A)).

This application has come before us for admission
with notice to the respondents. Shri Sanjiv Kumar,
counsel appeared for the applicant and Shri P.H.
Ramchandani, Sr.counsel appeared for the respondents.
They have been heard.

Shri P.H. Ramchandani raised a preliminary
objection on the ground that the application is belated.
He submitted that the grievance of the applicant was
that his claim ^{as that he was} an official borne on the establish-
ment of respondent No.1 had been wrongly rejected by
the respondents. Shri P.H.Ramchandani pointed out
that the applicant had made the claim as far back
as August, 1985 and that ^{the} claim had been rejected in
that year itself. Another letter reiterating the
same decision was issued to the applicant and that
letter is of 23rd April, 1986. The applicant should

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have come to this Tribunal within one year from the original rejection of his claim in 1985. This application was, however, filed on 4.7.1988 nearly two years late. Even if the second letter dated 23.4.1986 is, for the sake of the argument, considered as giving rise to the cause of action, the application should have been filed before 23.4.1987 and even that has not been done. The applicant in his Misc. Petition No.1414/88 for condonation of delay has not shown reasonable cause for the delay. Shri P.H.Ramchandani, therefore, submitted that the application should be dismissed in limine as out of time.

Shri P.H.Ramchandani ^{V) further} also submitted that even on merits the application does not deserve to be entertained. The applicant had been appointed in 1978 as Hindi Clerk in the office of respondent No.2 and he had accepted the posting. Subsequently, he had been sent on deputation to the office of respondent No.1 and had been allowed deputation allowance in that office. This position being very clear and not disputed, the applicant cannot now be heard to say that he was all along borne on the establishment of respondent No.1. Shri Ramchandani, therefore, submitted that even on merits this application did not deserve to be entertained.

Shri Sanjiv Kumar, ld. counsel for the applicant submitted that the delay in filing this application was due to the fact that the applicant being a small employee could not afford to incur the wrath of his superiors by rushing to the court. He tried his best to get the reliefs

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from the respondent and only when he found that he could not get any relief ^{at} to that end, that he filed this application. He, therefore, submitted that the delay in filing the application be condoned and the matter decided on merits.

On the question of merits Shri Sanjiv Kumar submitted that though the applicant did originally join the office of respondent No.2 in 1978 and though he had actually been taken on deputation in the office of respondent No.1 and had drawn deputation allowance while working there, the process of recruitment by which he was appointed ^{as} Hindi Clerk would clearly show that he was recruited only by respondent No.1. The applicant was working in the office of respondent No.1 as Cl.IV employee for 1971. In 1978, respondent No.1 exempted him from the upper age limit to appear for the departmental examination for promotion to Class III post. Therefore, the case of the applicant was treated as one of promotion from Class IV to Class III and that being so, the promotion would become effective only in the office of respondent No.1 who granted the exemption. It was ^{M a} three way contract according to Shri Sanjiv Kumar in which respondent No.1, respondent No.2 and the applicant were parties. Though the applicant himself had accepted appointment in 1978 in the office of respondent No.2, the views of both

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respondents 1 and 2 at the time were different. It was because of this that ⁱⁿ the initial years when the applicant was working in the office of respondent No.2, he was not allowed Railway passes which he should otherwise have been entitled to. Thus two parties to the contract did not agree that the applicant's appointment as Hindi Clerk in 1978 was on the establishment of respondent No.2. That being so, the respondents cannot now say that the applicant is not part of the establishment of respondent No.1.


We have considered the rival contentions carefully. We must accept Shri P.H.Ramchandani's contention that ~~the~~ ^{limitation} relief so far as this application is concerned should be reckoned from the first occasion on which the applicant's request was turned down by the respondents and that was some time in 1985, the applicant having made a request in August, 1985. Reckoned from that date, the application is very much belated. The explanation offered viz. that the applicant could not submit the application earlier for ^{M harassment} fear of reappraisal from the respondents does not impress us. In our opinion it cannot be treated as reasonable cause for condoning the delay. We are, therefore, inclined to dismiss this application in limine as being out of time.


Before parting ^{with} this application, we may also mention that even on merits, the applicant does not have a good case. It is not disputed that he was appointed as Hindi Clerk in 1978 in the office of respondent No.2. The

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exemption from the upper age limit granted by respondent No.1 can only be taken as something which respondent No.1 wanted to do to help the applicant to get the higher post and nothing more than that. It is also admitted that while the applicant was working in the office of respondent No.1, he was being paid deputation allowance. It is unfortunate that for some initial years the applicant was not given ~~the~~ Railway passes but this cannot create a right in his favour to be considered as an official of the establishment of respondent No.1. Thus the application is even otherwise devoid of merit.

In view of the above, we dismiss this application in
limine as out of time but in the circumstances the parties will bear their own costs.


(P.Srinivasan)
Member (A)


(P.K.Kartha)
Vice-Chairman.