

(10)  
CAT/8/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 167/86  
T.A. No.

1986.

DATE OF DECISION

9.10.80

Smt. Sama Kaur

Petitioner

Shri Piyush,

Advocate for the Petitioner(s)

Versus

Secretary, Ministry of Health & Ors. Respondent

Shri K.C. Mittal

Advocate for the Respondent(s)

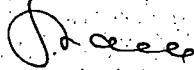
**CORAM :**

The Hon'ble Mr. P.C. Jain, Member (Administrative)

The Hon'ble Mr. J.P. Sharma, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

  
( J.P. Sharma )  
Member (Judl.)

( P.C. Jain )  
Member (Admn.)

(11)

Central Administrative Tribunal  
Principal Bench: New Delhi.

Regn. No. OA-167/86

Date of Decision: 9-10-1990

Smt. Sama Kaur

...Applicant.

Vs.

Secretary, Ministry of  
Health & Others.

... Respondents.

For the applicant

... Shri Piyush,  
Advocate.

For the respondents

... Shri K.C. Mittal,  
Advocate.

CORAM: Hon'ble Shri P.C. Jain, Member (Administrative)  
Hon'ble Shri J.P. Sharma, Member (Judicial).

JUDGEMENT

(Delivered by Hon'ble Shri J.P. Sharma)

The applicant moved this application under Section 19 of the Administrative Tribunals Act, 1985 against the order dated 26.12.1985 passed by the Chief Administrative Officer, Safdarjang Hospital, New Delhi rejecting the representations of the applicant dated 30.7.85 and 18.11.85 regarding her request for appointment from March, 1971.

In the representation dated 18.11.1985, the applicant requested the Medical Superintendent, Safdarjang Hospital, New Delhi for correcting her seniority and for being treated as a regular employee since March, 1971 with entitlement of all consequential benefits. The impugned order also informed her that her seniority shall be considered from 1.9.1977 when offer was given to her for appointment to the post of Safaiwala.

2. The applicant claimed the following reliefs:

that the petitioner's seniority be corrected and that she may be treated as a regular employee since March, 1971 and any other relief, as the Tribunal may deem fit, be given to the applicant.

3. The facts given out by the applicant, in brief, are as follows:

That she started working as a Safai Karamchari since March-April, 1971 on daily wages at the rate of Rs. 4/- per day and since then she has been continuously working

: 2. :

without any break as Safai Karamchari. In 1977, she got a letter to be appointed as a regular Safai Karamchari. Her grievance is that during all this period from 1971 to 1977 she was not made regular though she was doing the same work of Sweeperess which was being done by permanent sweeperess. In spite of vacancy of permanent posts, the applicant was not regularised and made permanent and the rank numbers given to her by the respondents were changed in a malafide manner from time to time. The applicant was once given the rank No. 2731, the next time it was 716 and then it was increased to 2853. The applicant gave birth to a child on 27th January, 1978 and she was not given work and wages till 10th March, 1978. That the applicant represented regularly and the last representation was made on 18.11.1985. The applicant, therefore, as stated above, has prayed for regularisation from March, 1971 and counting of her seniority from that date.

4. The respondents filed the reply contending that the applicant was regularly appointed w.e.f. 10.3.1978. The first representation was made by her on 9.3.1979 which was rejected on 2.5.1979 and in view of this fact, the application is barred by limitation under Section 21 of the Administrative Tribunals Act. It is further contended that the applicant was engaged as a daily wager and as she was junior to other persons, she could not be considered for regularisation prior to 1.9.1977. She was considered on her turn; according to SR-4, since she was found medically unfit, she could not be appointed till she was reexamined for a fitness certificate six weeks after the date of confinement. The applicant submitted the fitness certificate and accordingly joined on 10.3.78. However, she has been given seniority with effect from

1.9.1977. The rank allotted to the applicant on 29.3.78 was 2853. No rank is allotted to a casual labour. Rank No.2731 was allotted to Smt. Usha Parmer, Staff Nurse and the rank No.716 quoted by the applicant pertained to another Smt. Sama Kaur, wife of Shri Mia Chand who had been working in the hospital since 16.6.1962. In view of the above submission, the respondents prayed that the application/petition be dismissed both as being time barred as well as devoid of any merit.

5. The applicant filed the rejoinder but did not give any additional facts, nor did she deny the averment made in the reply in para V at page 3 regarding the rank numbers given in the application.

6. We have heard the learned counsel for the parties at length. The respondents raised the objection that the application is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. Section 21 provides that beyond limitation no application shall be entertained. In the present application the applicant prays for the relief of being regularised since March, 1971 and according to the respondents as alleged in para 5 of the reply, the applicant made representation in March, 1979, which was rejected in May, 1979. In the rejoinder, the applicant did not counter this allegation and only reiterated that representation was also made on 18.11.1985 which was disposed of by the impugned order. It has been consistently held that repeated representations do not add to limitation as held in Dev Raj Vs. Union of India, (1987) 2 ATC 189 CAT Jab., Ganpat Dashrath Sarata Vs. Union of India, (1986) 1 ATC 521 CAT (Bomb.), Dr. (Smt.) Keshma Kapoor Vs. Union of India (1987) 4 ATC p.329. In S.S. Rathore Vs. State of M.P., ATR 1989 Vol. II SC p.335, It has been held by the Hon'ble Supreme Court that the repeated representations do not add to limitation. After rejection of her first representation on 2.5.79, the applicant did not take any steps for redressal of her grievance right

upto July, 1985. She made further representations only in July, 1985 and November, 1985. Once a representation is rejected submission of any subsequent representation and, that too, after a period of about six years does not give a fresh cause of action. The applicant claimed relief of regularisation since 1971, while she, before filing the application, already got the relief of regular appointment from March, 1978. She approached the Tribunal on 7.3.1986 for redressal of her grievance, the cause of action of which had arisen much before three years of the coming into force of the Act of 1985. In V.K.Mehra Vs. Secretary, Ministry of Information and Broadcasting, it has been held that the Administrative Tribunals Act, 1985 does not give to or vest jurisdiction in the Tribunal to take cognizance of a grievance arising before 1.11.1982. Therefore, the reliefs claimed by the applicant are barred by Section 21 of the Administrative Tribunals Act, 1985.

5. The learned counsel for the applicant has also referred to the authorities\* on seniority in a particular cadre. These authorities are not relevant in the present case at all. The appointment and regularisation of the official is since March, 1978 and she has been given seniority from September, 1977.

6. In view of the above discussion, the application is barred by limitation and is, therefore, dismissed leaving the parties to bear their own costs.

J.P. Sharma  
( J.P. Sharma )  
Member (Judl.)

P.C. Jain  
( P.C. Jain )  
Member (Admn.)

1. ATC 1985 CAT 283

\*1984 AIR SC 1595, O.P.Singla Vs. U.O.I.

1986 AIR SC 638, Narendra Chadha Vs. U.O.I.

1989 AIR SC 2359, Sonal Sihimappa Vs. State of Karnataka &Ors