

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 304
T.A. No.

198 6.

DATE OF DECISION 7.1.1987.

Smt. Maya Gangwar

Petitioner

Shri G.D.Gupta,

Advocate for the Petitioner(s)

Versus

Union of India and another

Respondents

Shri N.S. Mehta, Sr.Standing

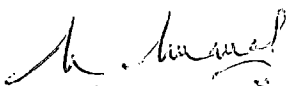
Advocate for the Respondent(s)

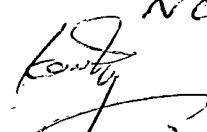
CORAM :

The Hon'ble Mr. Justice K.Madhava Reddy, Chairman .

The Hon'ble Mr. Kaushal Kumar, Member.

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


(Kaushal Kumar)
Member
7.1.1987.


(K.Madhava Reddy)
Chairman
7.1.1987.

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

Regn. No. OA 304/86.

Smt. Maya Gangwar ... Applicant

Versus

Union of India and another .. Respondents.

CORAM:

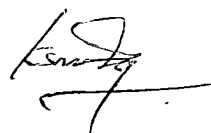
Shri Justice K. Madhava Reddy, Chairman,
Shri Kaushal Kumar, Member.

For the applicant ... Shri G.D. Gupta, counsel.

For the respondents ... Shri N.S. Mehta, Sr.
Standing counsel.

(Judgement of the Bench delivered by the
Hon'ble Shri Justice K. Madhava Reddy, Chairman.)

The applicant was appointed as Investigator(Chemical) in the office of the Small Industries Service Institute, Cuttack on 31.12.1977. The Development Commissioner, Small Scale Industries, New Delhi by letter No. A-12026(1)/77-A(NG) dated December, 1977 addressed the Director, Small Industries Service Institute, Cuttack-8 to intimate her that "it has been decided to appoint her to the post of Investigator(Chemical) in Small Industries Service Institute, Cuttack against the vacant post purely on ad hoc basis for a period not exceeding 3 months. Appointment is purely temporary and she will have no claim for continuance of her appointment..... As regards regular appointment, she may note that all appointments to the post of Investigators are made through Director General Employment Training". She accepted the terms and she was appointed on ad hoc basis. On the date of her appointment, she was overaged by 11½ years. On 6.5.1981, her services were terminated. It is this order of termination of her services that is challenged in this Application under Section 19 of the Administrative Tribunals Act. This order of termination was issued having



10

regard to the fact that she was overaged even on the date of her ad hoc appointment and until relaxation was given, she could not be regularised. Her ad hoc appointment was continued subject to grant of relaxation by the competent Authority.

It is clear from the record produced by her, that immediately after her appointment, the Development Commissioner, Small Scale Industries in his letter dated 7.1.1978 while asking the Director Small Scale Industries, Cuttack to inform whether the applicant had joined duty and required him to send a requisition to the local Employment Exchange to sponsor candidates for the post of Investigators (Chemical)" for a vacancy of 3 months (likely to be extended if regular candidates through Directorate General of Employment and Training are not available in the meanwhile). Age and qualification for the above post will be the same as advertised recently by the DGE&T. It may also be stated in this connection that age/qualifications is relaxable in case of candidates otherwise well qualified as per Recruitment Rules. They may also be requested to consider the claim of Smt. Maya Gangwar (applicant herein." This clearly shows that unless age was relaxed, there could be no regular appointment of a person who was overaged. The age was not relaxed. Thus it does not appear that the applicant has any case on merits.

Be that as it may ~~is~~, the impugned order of termination is dated 6.5.1981. That order ~~has~~ ^{having} been made more than 3 years prior to the "Appointed Day" i.e. on 1.11.1985, in view of Section 21 of the Administrative Tribunals Act, 1985, this Tribunal has no jurisdiction to entertain the grievance of the Applicant as held by

10

10

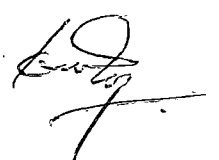
this Tribunal in R.N. Shinghal versus Union of India(1).

Shri G.D. Gupta, learned counsel for the applicant contends that against the order of termination she has made representation. That representation was never disposed of.

At the hearing of this case, the personal file No.A- 20025/2/78 A(NS) of Smt. Maya Gangwar, Investigator (Chemical) Small Industries Service Institute, Cuttack was placed before us by the respondents which shows that on 13/16 October, 1981 a Memorandum No.A-20025/2/78-A(NG) was addressed by the Deputy Director (Admn.), Office of the Development Commissioner (Small Scale Industries), Ministry of Industry, Nirman Bhavan, New Delhi to the applicant with reference to her representation dated 8.5.1981 addressed to the Secretary, Department of Industrial Development informing her that it was not possible to revoke the termination order dated 6.5.1981. That order was sent to her by Registered Post at the address given by the Applicant and found in her service record. That letter was returned with an endorsement "addressee out of station". Subsequent representations were made by her. They were all filed. She did not move the High Court or this Tribunal earlier; instead she appears to have made some representations to the President of India. That representation was acknowledged by the President's Secretariat through letter No. 2768-PI(3)/86 dated 17.6.1986 by which she was informed that "the same has been forwarded to the Secretary to the Government of India, Ministry of Industry (Department of Industrial Development), New Delhi for appropriate action and that

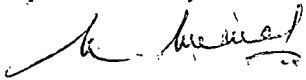
further communication may be addressed to him....". The applicant seems to have pursued the matter through one Shri Ram Bhajan Singh, 270, Lajwanti Garden, New Delhi, and the Under Secretary, President's Secretariat informed him that her representation was forwarded to the Secretary to the Government of India, Ministry of Industry, Department of Industrial Development, New Delhi. Since the matter was forwarded by the President's Secretariat, the Development Commissioner, New Delhi informed Shri Ram Bhajan Singh that "her case for re-instatement was raised by several VIPs and was considered a number of times at the higher level but unfortunately could not be acceded to."

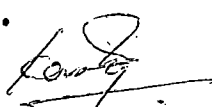
The applicant seems to have also represented her case to Shri Z.R. Ansari, the then Minister of State for Environment, Forest and Wild Life, Government of India and Shri Ansari seems to have referred the matter to Shri Narayan Datt Tiwari, the then Minister of Industry, Government of India. Shri Narayan Datt Tiwari addressed a letter exhibit Annexure P-4 dated 28.9.1986 to Shri Z.R. Ansari informing him that the applicant was over-aged by more than 11 years at the time of her appointment. Her services had to be terminated as Department of Personnel and Administrative Reforms did not agree for relaxation of age in her favour. In view of these two communications (i) dated 19.9.1986 addressed by the Development Commissioner to Shri Ram Bhajan Singh and (ii) the letter dated 28.9.1986 addressed by the Industry Minister to Minister of State for Environment, the applicant claims that her petition is within time. We are unable to agree with this contention. The grievance of the applicant is in respect of an order.



more than 3 years prior to the constitution of this Tribunal. In such a matter, the Tribunal has no jurisdiction to entertain the grievance of an applicant under Section 19 of the Administrative Tribunals Act, 1985. The question of condoning the delay, therefore, does not arise in such cases. The applicant's contention that since she has not received the communication rejecting her representation against the order of termination, limitation does not begin to run, cannot be accepted. Even if a writ petition in respect of an order dated 6.5. 1981 ^{were} filed in April, 1986 in the High Court, the same would have been dismissed for laches. When a communication was addressed to the applicant by Registered Post at the address given by her and if she has not received the same, she has to blame herself.

There was no proceedings pending so far as the respondents are concerned after the communication dated 13/16 October, 1981 sent to her by Registered Post rejecting her representation. The representations received thereafter were simply filed. The subsequent representation made to the President was merely forwarded by the President's Secretariat to the Ministry of Industry. The Office of the Development Commissioner informed that here earlier representations were rejected. Any communication addressed by one Minister to another on any representation made by the applicant for the first time in 1986 more than six months of the constitution of this Tribunal cannot revive a dead matter and furnish a fresh starting point of limitation for filing a Petition under Section 19. This petition, is therefore, dismissed as time barred.


(Kaushal Kumar)
Member
7.1.1987


(K. Madhava Reddy)
Chairman
7.1.1987