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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

M.P. No. 957/86

O.A. No. 864/86,
T.A. No.

198

DATE OF DECISION 27.2.1987

Shri P.S. Bansal

Petitioner= Applicant

Mrs. Urmilla Kapur

Applicant

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondents

Shri K.C. Mittal

Advocate for the Respondent(s) 1 & 2

Shri Swatanter Kumar

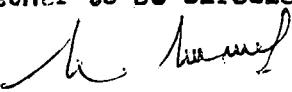
Advocate for Respondent 3.

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 all the Benches. Yes


(Kaushal Kumar)
Member
27.2.1987


(K. Madhava Reddy)
Chairman
27.2.1987

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

M.P. No. 957/86
and
O.A. No. 864/86.

Date: 27.2.1987

Shri P.S. Bansal .. Applicant.

vs.

Union of India & Ors. .. Respondents

CORAM:

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

Hon'ble Mr. Kaushal Kumar, Administrative Member

Applicant through Mrs. Urmilla Kapur, counsel.

Respondents 1 and 2 through Shri K.C. Mittal, counsel.
Respondent No. 3 through Shri Swatanter Kumar, counsel.

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

JUDGMENT.

This is an application under Section 19 of the
Administrative Tribunals Act, 1985.

2. Counter has been filed on behalf of Respondent No. 3.

But an objection has been raised on behalf of the applicant that
it cannot be placed on record at this belated stage.

3. In this application, the primary relief claimed by the
applicant is that the Respondents be directed to regularise him in
the post of Head Accountant with effect from 20.1.1973. The order
regularising his services in the post of Head Accountant was made

[Signature]

on 12.8.1983 and he was regularised with effect from 12.5.1983.

The grievance, if any, of the applicant in respect of the impugned order, therefore, arose on 12.8.1983. As this order was not made within three years of the "Appointed Day" i.e. 1.11.1985, this Tribunal has no jurisdiction to entertain the grievance of the applicant in this regard. However, any objection in respect of the grievance arising out of an order made within three years of the commencement of the Tribunal must be made within six months thereof i.e. 30.4.1986. This application filed on 6.10.1986 is, therefore, clearly barred by time. The applicant, however, while contending that the application is not barred by time, alternatively pleads that there is sufficient cause to condone the delay in filing the application. Two affidavits have been filed by the applicant to show sufficient causes on 12.12.1986 and 17.12.1986. The purport of these affidavits is that the services of Shri S.R. Verma, respondent No. 3 herein, were regularised as Head Accountant with effect from 5.7.1971 vide order dated 12.8.1983 after his case was referred to the Department of Personnel and the Department of Personnel agreed to relax the rules as regards age in his favour in the year 1983. However, even before that relaxation was allowed Mr. Verma was reverted as Junior Accountant vide order dated 29.1.1983. But even before this reversion order, Mr. Verma filed a Writ Petition seeking a mandamus for his regularisation as Accountant with effect from October 1965 and Head Accountant with effect from July 1971. As the Writ Petition



was pending when this reversion was made, he made it the subject matter of that Writ Petition. However, before the Writ Petition could be finally disposed of as relaxation of age was granted, Mr. Verma was regularised as Head Accountant in 1983 with retrospective effect from 5.7.1971. Since Mr. Verma was granted the relief claimed by him in his Writ Petition, he withdrew the same. Applicant pleads that the pendency of the Writ Petition filed by Mr. Verma constitutes sufficient cause for not filing the present application in time. According to the applicant, he was justified in awaiting the result of the Writ Petition in which Mr. Verma claimed to be senior to Mr. M.L. Piplani and Mr. K.N. Tripathi both of whom were senior to the applicant herein. The applicant states that if Shri Verma was to succeed against Mr. Tripathi and Mr. Piplani, the applicant could not have any grievance. In support of this contention, the applicant's counsel relied upon the judgment of the learned Single Judge in R.L. Gupta Vs. Municipal Corporation, Delhi.¹ We are, however, unable to agree with the contention that the pendency of the Writ Petition filed by Mr. Verma constitutes sufficient cause for not filing the present application under Section 19 of the Administrative Tribunals Act in respect of the applicant's grievance. To the Writ Petition filed by Shri Verma, the applicant herein was not a party. Any judgment rendered therein could not bind him. Moreover, in that Writ Petition, the question to be considered was whether Shri Verma was entitled to be regularised with effect from 20.1.1973 as Head Accountant as claimed by him. Furthermore, if Mr. Verma were to fail in the Writ Petition, the question whether he should have been

regularised earlier than the applicant would still have been at large. It is not as if the result of that Writ Petition would, in any event, have concluded the matter so far as the applicant was concerned. The applicant, if he was aggrieved by any order, should have either filed a Writ Petition before the High Court before 1.11.1985 or an application under Section 19 of the Act within six months of the constitution of the Tribunal. The view taken by the learned Single Judge in the judgment cited supra was in relation to an application under Article 226 of the Constitution of India for filing which no period of limitation is prescribed while the application with which we are now concerned is one filed under Section 19 of the Act for which a period of limitation is prescribed under the Act. Unless sufficient cause is shown within the meaning of Section 5 of the Limitation Act, this Tribunal would not be justified in condoning the delay. In the case of an application under Section 19 of the Act, it is not a question of ^{Mere} laches but one of showing sufficient cause for not filing the application within the statutory period of limitation. Obviously, considerations for condoning delay and appreciating the circumstances explaining the laches cannot be the same. Further, that was a case in which the petitioner therein had moved the High Court under Article 226 and the person who intended to take the advantage of the pendency of that Writ Petition were similarly placed and, as is clear from the learned Single Judge's judgment, if the petitioner who was agitating before the High Court succeeded, the petitioner who was similarly placed would also have



got the relief automatically. In paragraph 8 of the said judgment, the learned Single Judge observed as under:-

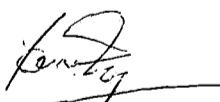
"The petitioner must have been aware that Shri O.P. Gupta was agitating the claim of diploma holder Assistant Engineers for promotion to the post of Executive Engineer. He could well imagine that if Shri O.P. Gupta gets any relief, the same would be available to him also as apparently their cases were more or less similar. The petitioner nevertheless moved this Court and the Supreme Court. In these circumstances it does not seem to be a case where the petitioner should be denied his relief on the ground of delay".

4. As pointed out above, the applicant and Mr. Verma are not similarly placed. If Mr. Verma failed against Mr. Tripathi and Mr. Piplani in the Writ Petition, it is not as if the applicant also should necessarily fail. The applicant and Shri Verma far from being placed similarly have conflicting claims. Therefore, the applicant should not have awaited the result of the Writ Petition filed by Mr. Verma.

5. In view of the above discussion, we hold that the applicant has failed to establish sufficient cause for condonation of delay in filing this application. Miscellaneous Petition (No.957/86) for condonation of delay is accordingly dismissed and as a result, Application (O.A. No. 864/86) is also dismissed as barred by time.



(KAUSHAL KUMAR)
Member
27.2.1987



(K. MADHAVA REDDY)
Chairman
27.2.1987.