

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

....

R.A. No. 42/87.
O.A. 24/86

Date of Decision: 25-6-1987.

Shri H.C. Sharma

... Applicant

Vs.

Union of India

... Respondent.

CORAM:

Hon'ble Mr. Justice G.Ramanujam, Vice-Chairman.

Hon'ble Mr. Birbal Nath, Administrative Member,

For the applicant: Shri J.S. Bali, counsel.

For the respondent: Shri N.S. Mehta, counsel.

ORDER

This is an application for review of our judgment rendered on 28.1.1987 in O.A. No. 24/86. In that judgment, without going into the merits of the case as put forward by the applicant, we have dismissed the application on the ground that the applicant's claim is barred by limitation. We have taken into account the fact that the applicant's main grievance is about his non inclusion in the select list prepared in the years 1978 and 1979. Having regard to the grievance of the applicant about his non-inclusion in the said two lists, we held that the grievance having arisen three years preceding the constitution of the Tribunal, the matter will not come before the Tribunal and, therefore, the same was dismissed as time-barred. Since the cause of action arose three years preceding the constitution of the Tribunal, we felt that there is no question of condonation of delay and the condonation of delay is contemplated,

RA 42/87.

as per Section 21 of the Administrative Tribunals Act, 1985 (hereafter referred to as 'the Act'), only in respect of causes of action which arose within three years preceding the constitution of the Tribunal. The learned counsel for the applicant contends that even though the non-inclusion of the applicant in the select lists in the years 1978 and 1979 is his main grievance, the applicant has filed representations and those representations have not been disposed of in time and, as such, those representations should be taken to be a continuing cause of action and ^{as such} the application should be taken on file and disposed of on merits. A perusal of our order will clearly indicate that we took note of the representations said to have been made by the applicant to the Cadre authorities and we have observed that any non-statutory representation cannot be taken advantage of for extending the period of limitation.

2. The learned counsel for the applicant contends that if the applicant had agitated the matter before the High Court, the High Court might have, in exercise of the powers conferred by Article 226 of the Constitution, entertained the matter and as the Tribunal has been given the same powers and authority as available to the High Court, by virtue of Section 14 of the Act, the Tribunal can also have the matter on file in exercise of its jurisdiction. It is, no doubt, true that if a writ petition is filed before the High Court, the same is not governed by period of limitation and it is the discretion of the High Court to either entertain the application or dismiss the same on the grounds of laches and delay. But so far as this Tribunal is concerned, Section 21 of the Act imposes a fetter on the powers of the Tribunal in the matter of entertaining applications filed under Section 19 of the Act. Section 14 of the Act cannot be read in isolation and the power and authority which the Tribunal could exercise ^{under section 14} is only in relation to an application

10

RA 42/87.

filed under Section 19 within the period contemplated by Section 21. We are not, therefore, in a position to ignore or by-pass the provisions of Section 21 of the Act and to dispose of the application on merits. In this view of the matter, we do not see any ground for reviewing the order in question. The Review Application is, therefore, dismissed, with no order as to costs.

6/8/81
(BIRBAL NATH)
Member (A)

(G. RAMANUJAM)
Vice-Chairman