

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1518
T.A. No.

1987.

DATE OF DECISION June 6, 1989.

Shri Zile Singh Petitioner

Shri B.S. Gupta, Advocate for the Petitioner(s)

Versus

Delhi Admn. & Ors. Respondents

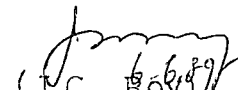
Shri M.M.Sudan, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. J.C. Roy, Member (A).

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? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No


(J.C. Roy)
Member (A)


(Amitav Banerji)
Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No.1518/1987. Dated of decision: June 6, 1989.

Shri Zile Singh Applicant.

Vs.

Delhi Administration & Ors Respondents.

Coram:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. J.C. Roy, Member (Administrative)

For the applicant ... Shri B.S. Gupta, counsel.

For the respondents .. Shri M.M.Sudan, counsel.

(Judgment of the Bench delivered in the
Court by Hon'ble Mr. Justice Amitav Banerji,
Chairman).

There is a preliminary objection to the
maintainability of this Application. The point was raised
even at the time of the admission of this Application on
27.11.1987 and the question of limitation was left open.
Today, the matter has come up before us for hearing. We
will take up the question of limitation first. The
services of the applicant was terminated under Rule 5(i)
of the Central Civil Services (Temporary Service) Rules,
1965, vide Order No.1351-70/EST DAP Ist Bn. dated 13.3.1980
which indicates that the termination notice was served
on the applicant on 19.2.1980 "his service shall
stand terminated w.e.f. 19.3.1980 (AN) on the expiry of
one month's notice". (Exhibit Annexure 'A' to the Appli-
cation).

Applicant's learned counsel states that he
made several representations and they were all rejected.

Ultimately, there is a reference in the O.A. to an order dated 9.8.1984 which was sent by the Deputy Commissioner of Police/HQ/(1), Delhi informing him that his representation dated 22.6.1984 addressed to the Commissioner of Police has been rejected. This order also indicated that his earlier representation dated 20.3.1980 had already been rejected by the Commissioner of Police, Delhi and the present representation could not be considered by him after 3 years. Another representation was thereafter addressed to the Commissioner of Police, Delhi dated 30.11.1984 and this too was rejected by the Commissioner of Police vide order dated 19.12.1984.

It seems that the applicant thereafter made petition to the Prime Minister of India dated 29.12.1984. The Deputy Commissioner of Police, Delhi informed him "that no mercy petition lies to the Hon'ble Prime Minister of India against the order of termination of services. Hence no action can be taken on your petition". Thereafter an application was made to the Lt. Governor, Delhi Administration wherein he had directed:

"Please examine and take appropriate action".

Thereafter the matter went upto the Ministry of Home Affairs and by an order dated 26.8.1985, the applicant was informed that the memorial of the applicant had been considered by the President and had not been accepted. The learned counsel for the applicant states that this order was communicated to the applicant on 17.10.1986. This is, however, disputed.

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The present Original Application was filed on 14.10.1987. The learned counsel for the applicant, therefore, contended that he had approached the Tribunal within a year of the receipt of the last communication on the subject. Therefore, the O.A. was within time. We have heard the learned counsel for the parties and we think that this matter can be disposed of without much reference to cases. There is a decision of a Division Bench sitting at Allahabad in the case of SHANTI PARKASH Vs. UNION OF INDIA & ORS. (ATR 1989(1) CAT 591) in which one of us (Hon'ble Shri Amitav Banerji) was a Member. The Bench held:

"Making of a series of representations one after the other does not condone the laches on the part of the petitioner."

In the present case, the first application was rejected even before 1984 according to the statement made by the learned counsel for the applicant. That representation having been rejected, no further representation would create further right in the applicant to move the Tribunal. The facts in the case of SHANTI PARKASH (supra) were somewhat similar in the present case and the Bench referred to several decisions including one of the Supreme Court in the STATE OF ORISSA vs. PYARIMOHAN SAMANTARY AND OTHERS (1977 (1) SLR 255).

The point is that an applicant has to be diligent in the matter of seeking relief in the court of law or Tribunal. He cannot sleep over the matter. He cannot go on

making representation after representation after the first representation is dismissed. That will not grant him additional period of time which could be added for the purpose of computing limitation.

The Supreme Court in the case of JAGDISH NARAIN MALTIAR Vs. THE STATE OF BIHAR AND OTHERS (1973 SCC (L&S) 391) held that after the dismissal of the writ petition by the High Court on the ground that it was filed after an abnormal delay, the applicant for nearly three years kept on submitting one memorandum after another to the Government which were in the nature of mercy petitions and were not duly authorised under any provision of law. The Supreme Court held:

"By his conduct he disabled the High Court from exercising its extraordinary powers in his favour. We are, therefore, of the opinion that the High Court was justified in refusing to entertain the petition."

Similar is the position here. Instead of approaching the High Court in exercise of its writ jurisdiction, he went on making representations and mercy petitions endlessly i.e. for nearly seven years.

In the case of MANGAN Vs. CHIEF SECURITY OFFICER AND ANOTHER (ATR 1986(1) CAT 247), the Madras Bench of the Tribunal held that representations of non-statutory in nature cannot extend the period of limitation.

In the present case the order of termination was passed on 13.3.1980 and even three years period would take it

to 12.3.1983 whereas the present O.A. had been filed on 14.10.1987 which is barred by time. In spite of the fact that the first representation made by the applicant had been rejected, he persisted in making further representations, memorials to the President and the Prime Minister. All were rejected. Nevertheless, it is the rejection of the first representation of the applicant that concludes the matter for he had exhausted all the departmental remedies available to him under the rules. Thereafter he could approach the Court or the Tribunal. In the present case, he never approached the court or the Tribunal within time. As a matter of fact, he could not have come to the Tribunal, for at that time, the Tribunal did not come into existence. But he could have filed either a suit or approached the High Court under Article 226 of the Constitution. He allowed the matter to lapse. Consequently, it is too late in the day to urge that the O.A. filed on 14.10.1987 challenging an order of termination dated 13.3.1980, is within time. We adopt the view taken in the case of SHANTI PARKASH, (supra) and find no merits in the argument of the learned counsel of the applicant in regard to the O.A. being belated and barred by time.

There is another aspect of the matter. It is well settled by the Tribunal that matters arising before 1.11.1982 cannot be entertained by the Tribunal. In the case of V.K. MEHRA Vs. THE SECRETARY, MINISTRY OF INFORMATION & BROADCASTING (ATR 1986(1) CAT 203), a Bench

of this Tribunal held that the Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1.11.1982. In such a case there is no question of condoning the delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982. It was held that the Tribunal has no jurisdiction, power or authority to entertain a matter against ~~an order which~~ had been made prior to 1.11.1982. The same view was taken by the Bangalore Bench of the Tribunal in the case of THIMMA Vs. DRM, Bangalore Division, Southern Railway (1987 (4) ATC 328). There an order of 2.7.1979 was challenged on 9.9.1986. On this ground also, this O.A. is liable to fail.

Learned counsel for the applicant then contended that the applicant had also filed an application for condonation of the delay in the filing of the O.A. He stated that the delay on the part of the applicant was not deliberate and has occurred on account of events which were beyond the control of the petitioner.

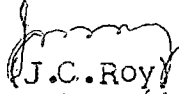
Having considered the matter and its legal and factual aspects, we are not satisfied that sufficient cause has been made out to condone the delay in the filing of the O.A. The delay is for a period of seven years. The applicant was not handicapped in moving any court of competent


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jurisdiction but went on making representations one after the other, quite unnecessarily. If he could make representations, he could have moved before a proper forum for relief. He has not been able to explain the delay at all. Hence, we do not see any reason to condone the delay.

Further, this case must fail on another ground as indicated earlier. It is on the question of jurisdiction. The order for termination of service was passed in 1980 i.e. before 1.11.1982 and as such, the Tribunal could not entertain it.

In the result, this O.A. is rejected as not maintainable. We order accordingly. No order as to costs.


J.C. Roy
Member (A)
6.6.1989.


(Amitav Banerji)
Chairman.
6.6.1989.