

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : DELHI

O.A. NO. 858/87

Date of decision 7-2-1991.

Raghunath Singh

... APPLICANT

Vs.

Union of India & Anr.

... RESPONDENTS

Shri A. P. Mohanty

... Counsel for the Applicant

Shri K. C. Mittal

... Counsel for the Respondents

CORAM : HON'BLE SHRI G. SREEDHARAN NAIR, VICE-CHAIRMAN (J)
HON'BLE SHRI P. C. JAIN, MEMBER (A)

J U D G M E N T

(Hon'ble Shri P. C. Jain, Member (A) :

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has assailed memo dated 10.5.1984 (Annexure-V to the amended O.A.) in which he was informed, with reference to his application dated 14.10.1982 praying for his re-employment in the Government of India Press, Minto Road, New Delhi, that his request for re-employment had been considered carefully by the Directorate of Printing but the same could not be acceded to and that no further correspondence on the subject will be entertained. He has prayed for :

(i) a declaration that he has the legal status of a Compositor Gr.-I of the Government of India Press with effect from 10.1.1954 and that he must be deemed to be continuing in the said post of Compositor Gr.-I with effect from 10.1.1954 till 19.6.1961 when his services were transferred to the Delhi Administration as a Printing Instructor in the Poor House and that he was entitled

on his reversion to the parent post to join the duties in the post of Compositor Gr.-I and not in the post of Distributor;

(ii) a declaration that the Government of India press illegally prevented the applicant from joining his duties in the post of Compositor Gr.-I after his reversion from the Delhi Administration and that the respondents are liable to pay all his salary and other emoluments for the post of Compositor Gr.-I w.e.f. 10.1.1954 till 19.6.1961 and again from 1.7.1976 till 6.11.1987 when he was allowed to join his duties in the post of Distributor pursuant to an order passed by the Central Administrative Tribunal to that effect;

(iii) payment to him of the arrears of his salary and other emoluments in the post of Compositor Gr.-I w.e.f. 6.11.1987 till the date of his retirement; and

(iv) a declaration in clear and unequivocal words that he was legally entitled to join the duties in the post of Compositor Gr.-I w.e.f. 1.7.1966 and that he was at no time unwilling to join the duties in the post of Distributor and as such he was not at any time after 1.7.1966 till 6.11.1987 wilfully absent from ^{his} duties.

2. The relevant facts, in brief, are that the applicant was initially appointed to the post of Distributor in the Government of India Press at Minto Road, New Delhi and continued to work as such till 19.6.1961 when he was relieved of his duties to enable him to join as Printing

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Instructor, Poor House, Delhi Administration where he joined on 20.6.1961. He was reverted back to his parent department vide order dated 25.5.1966 (Annexure R-IV to the reply filed by the respondents). The reversion was to take effect from 1.7.1966.

3. The controversy starts from the above date of 1.7.1966. According to the applicant he was not allowed to join duty, but the respondents' contention is that the applicant did not report for duty after reversion from the Delhi Administration. The respondents have filed copies of two memoranda dated 1.8.1966 and 27.8.1966 (Annexure R-I and R-II to the respondents' reply) which show that through these two above communications the applicant was told that he had neither reported for duty nor had he submitted any leave application duly supported by proper medical certificate from the competent medical authority and he was, therefore, directed to report for duty at once or apply for leave duly supported by proper medical certificate failing which he would render himself liable to disciplinary action under the rules. It appears that the applicant applied for leave after 30.6.1966 to the officers under the Delhi Administration and not to the Government of India Press and took a stand that he could not be reverted from the post of Printing Instructor which he was holding on deputation. He filed civil suit No.354/73 in the Court of Ms. Mamta Rani, Sub-Judge III Class, Delhi in which he challenged the order of his reversion dated 25.5.1966 from the post of Printing Instructor, Poor House under the Social Welfare Directorate, Delhi Administration to his parent department on the ground that his reversion was without any reason and that the department was also not competent to revert him back. The suit was dismissed vide order dated 7.1.1974.

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4. After the applicant filed this application before this Tribunal, a Bench of this Tribunal in the orders passed on 25.9.1987 directed that "Applicant may report on duty forthwith and if he does so, the respondents shall allow him to join duty. Of course, this order is passed subject to and without prejudice to any right of the respondents to take disciplinary action against the applicant." Though the order sheet shows that the respondents had passed an order dated 6.11.1987 allowing the applicant to join duty with effect from the said date, the applicant urged at the bar that an order had been passed on 29.10.1987 and he had joined his duties on that date. It is common ground between the parties that the applicant did not work either with the Delhi Administration where he had gone on deputation or with the respondents from 1.7.1966 till he was allowed to join duty in pursuance of the interim order passed by the Tribunal as aforesaid.

5. We have gone through the material on record and have also heard the learned counsel for the parties.

6. The respondents have raised preliminary objections to the effect that the application of the applicant is barred by limitation and that the Tribunal has no jurisdiction as the cause of action had arisen much prior to three years before the Tribunal came into existence and as such the Tribunal has no power even to condone the delay. The applicant himself has stated in para 5 of his amended application that the application is not within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985 and, therefore, he was simultaneously filing a misc. petition for condonation of delay under Section 21(3) of the Act ibid.

7. Let us first deal with the preliminary objections. Admittedly the applicant was ordered to be reverted to his parent department w.e.f. 1.7.1966 vide orders dated 25.5.1966.

Further, admittedly the applicant has not worked from 1.7.1966 till he reported for duty under the interim orders passed by the Tribunal towards the end of 1987. The cause of action accrued to the applicant on 1.7.1966 as vide order dated 25.5.1966 he was reverted to the post of Distributor while the applicant claims that he should have been given the post of Compositor Gr.-I. His civil suit against the order of reversion to the parent department filed by him in 1973 was dismissed on 7.1.1974. If he had any grievance in regard to the post to which he had been reverted, the cause of action again accrued to him with effect from that date. After waiting for nearly twenty one years or more than thirteen years, as the accrual of cause of action may be taken, the applicant filed this O.A. in the Tribunal in 1987. This application is clearly barred by limitation in view of the provisions of Section 21(2) of the Administrative Tribunals Act, 1985 and the cause of action having arisen before 1.11.1982, i.e., more than three years anterior to the date on which the Tribunal came into existence and started exercising the powers and functions under the Act, the Tribunal has neither any jurisdiction in the matter nor it has powers to condone the delay in such a case (V. K. Mehra vs. Secretary, Ministry of Information and Broadcasting, New Delhi : ATR 1986 (1) CAT 203; S. S. Rathor vs. State of Madhya Pradesh : AIR 1990 SC 10).

8. The limitation in this case cannot be counted from the date of the order assailed which is dated 10.5.1984, firstly, because this is a reply to the applicant's request made in 1982 for re-employment where he himself described as ex-Distributor of the Government of India Press, and secondly, because in this O.A. no relief of employment with any retrospective date or from the date of such a request made in 1982 has been prayed for.

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9. It may also be mentioned that even though the case of the applicant, after the order of reversion from deputation was passed on 25.5.1966, has been that he should have been reverted as Compositor Gr.-I, yet he did not prefer any such claim in civil suit No.354/73 filed in 1973. On this ground also, such a claim as has been made in this O.A. is not tenable.

10. The applicant has since retired on superannuation on 31.12.1990. He has drawn the pay and allowances admissible thereon on the post of Distributor for little over three years in pursuance of the interim order passed by the Tribunal.

11. In view of the foregoing discussion, we do not consider it necessary to go into the rival contentions of the parties any further and hold that the application is not maintainable on the grounds of limitation and jurisdiction, and is disposed of as such. We leave the parties to bear their own costs.

(P. C. Jain)
Member (A)

(G. Sreedharan Nair)
Vice-Chairman (J)

7.2.1991.