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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. 1017/87

Date of decision: 24.4.92
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Kedar Singh

.. Applicant.

Versus

Union of India & ors. .. Respondents.

Sh.P.P.Khurana .. Counsel for the applicant.

Sh.K.C.Mittal .. Counsel for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J).
The Hon'ble Sh.A.B.Gorthi, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.Justice Ram Pal Singh, V.C.(J)).

The applicant has challenged the order dated 28.12.1981, passed by respondent No.3, by which his services were terminated, under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as act). Obviously the relief sought is barred by limitation, hence, the applicant in para 5, under heading 'limitation', has narrated a long history which is given in brief. On receiving the termination order dated 28.12.1981 he served a notice of demand on respondent No.3 on 19.4.1982. The applicant raised an industrial dispute under the Industrial Dispute Act of 1947. The conciliation proceedings were held before the Assistant Labour Commissioner. However, the management refused to co-operate and the Labour Commissioner gave a report on 2.8.82 with regard to the failure of the proceedings. The applicant then requested the respondents to make a reference under Section 10 of I.D. Act ~~of~~ Labour Court/ Industrial Tribunal but the respondents maintained silence. The applicant submitted an application under Section 33 C(2) of the I.D.Act for computation of wages. It was adjudicated thereon and the application was rejected on the ground that the case of termination is not covered under Section 33 C(2) of the Act and the applicant must

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first get a declaration that the termination order was bad in law and he was entitled to be reinstated with full wages by way of reference under Section 10 of the I.D.Act. Hence, the applicant approached the respondents, but they refused to change their earlier stand. He therefore, pursued the legal remedy bonafide with due diligence. Hence, in this very para he prays for condonation of delay.

2. The respondents on notice appeared and filed their return in which they raised a preliminary objection that this O.A. was barred by limitation and hence, it should be dismissed. Sh.P.P.Khurana, counsel for the applicant and Sh.K.C.Mittal, counsel for the respondents were heard on limitation as well as on merits of the case. But before proceeding further we shall adjudicate the question whether the O.A. is barred by limitation? The Administrative Tribunals Act is a special act enacted by the Parliament and it is self contained code . In Section 21 of the act the period of limitation for filing of O.A. is provided. Section 21 provides that a Tribunal shall not admit an application which has not been filed within one year from the date of passing of the order. It further provides that if an appeal or representation is filed then another six months period is given to the applicant for filing the O.A. Thus the total period of limitation is 18 months from the date of passing of the impugned order which is being challenged in a O.A. It also contains the provision under Sub-section 3 of Section 21 that an application may be admitted after the period of limitation, if the applicant satisfies, the Tribunal that he had sufficient cause for not making

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the application within such period. Admittedly in this case the impugned order was passed on 28.12.81. When in a proceeding under the Industrial Disputes Act the orders were passed then the applicant could have availed two remedies, one of filing a civil suit in which the period of limitation provided was three years or he could have filed a writ petition under Article 226/227 of the Constitution of India with a prayer for condoning the laches. None of these remedies were availed by the applicant. But he filed this O.A. on 23.7.87. Even if we take the commencement of the period of limitation for the sake of leniency to commence from 1.11.85, when the act came into force, even then this O.A. is clearly barred by limitation. Thus we are clearly of the view that the relief claimed is clearly barred by limitation and the O.A. cannot be admitted.

3. Under sub-section 3 of Section 21 the applicant is required to bring out sufficient cause for not filing the O.A. within the period of limitation. Neither an application for condonation of delay has been filed nor an affidavit in support of it has been brought to our notice. In the O.A. itself it is prayed ^{that he was} for litigating ⁱⁿ ~~any~~ ^{it was} different forum ^{it was} can be taken as sufficient cause for not approaching this Tribunal within the period prescribed under Section 21 of the Act. The provisions like Section 14 of the Limitation Act has not been incorporated in the Administrative Tribunals Act and hence, we cannot impose the meaning and spirit of that provision where it is mentioned that under Section 14 of the Limitation

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Act the time can be excluded if the proceedings were taken bonafide in a Court without jurisdiction. According to the applicant the Industrial Court had the jurisdiction and he litigated in that forum whether it was bonafide litigation or not nothing has been brought to our notice. The law is settled that each day's delay has to be explained by the applicant meticulously giving the details of the facts which may disclose and satisfy the Tribunal that there exists a sufficient cause for not filing the O.A. within the period of limitation. Mistake of law or ignorance of law is not a ground and cannot be made basis for a sufficient cause. The applicant had been seeking advise from duly trained advocates in law. If the proceedings were taken in good faith in the Industrial Tribunal then such averment should have been made in an affidavit to make a ground for condonation of delay. The mistaken advise of a counsel is not sufficient to justify extension of time. May be in a given circumstance the mistaken advise given by a legal practitioner may give rise to sufficient cause but in absence of any pleadings or in absence of any fact, we are of the view that there does not exist sufficient cause for condoning the delay in filing the O.A. Learned counsel for the applicant has cited plethora of case laws but they are not relevant because they do not deal with the question of condonation of delay. We refrain from expressing any view on the merits of the case. As this O.A. is barred by limitation, we dismiss it with no order as to costs.

(Signature)
 (A.B.GORTHI)
 MEMBER(A)

(Signature)
 (RAM PAL SINGH)
 VICE CHAIRMAN(J)