

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A. NO. 1108/87.

DATE OF DECISION: 10.12.1992.

Parmanand.

...Petitioner.

Versus

Delhi Administration & Ors.

...Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

Shri S.K. Gupta, with Shri  
R.K. Azad, Counsel.

For the Respondents.

Mrs Maninder Kaur, Counsel.

Judgement (Oral)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner was a temporary police constable under the Delhi Administration. His services stood terminated in the year 1967. It is his case that a large number of similarly situate police constables were terminated on the ground of their involvement in the strike. The petitioner had once again been appointed afresh on 4.1.1971 and he has been rendering service ever since that date. He has filed this application on 3.8.1987 in which he has prayed that his pay should be fixed at the same scale to which similarly situate who were recruited in the same batch along with him, thrown out of service at the same point of time and taken back at the same time and have put in equal years of service are entitled to. He has also prayed for fixation of his seniority and promotional avenues in future on that basis. He has further prayed for quashing of the order (Annexure 'E') passed in the year

1967 terminating his services.

2. At the outset, it must be noticed that we have no jurisdiction to examine the grievance of the petitioner for granting the reliefs aforesaid. So far as the validity of the order of termination passed in the year 1967 is concerned, the cause of action having arisen on the date of his termination, he ought to have sought relief before the appropriate forum at that time within the time prescribed by law, at any rate within a reasonable period. He is now seeking to agitate his rights in which cause of action accrued 25 years before. The Tribunal has no jurisdiction to entertain any application in respect of which cause of action accrued three years prior to its constitution on 1.11.1985. The cause of action having accrued in regard to the order of termination passed in the year 1967, we have no jurisdiction to entertain the petition in this behalf.


3. The cause of action again accrued in favour of the petitioner when he was freshly appointed on 4.1.1971 fixing his pay as a fresh recruit ignoring the prior service rendered by him in the department. What we have said in regard to the order of termination equally applies to this aspect also, the petitioner having claimed <sup>relief</sup> first time in the application filed in the year 1987. The cause of action having accrued

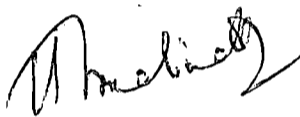
beyond a period of three years from the date of the constitution of the Tribunal, we have no jurisdiction to entertain this grievance either.

4. The principal case of the petitioner, however, is for equal treatment in the matter of pay and seniority. That is the first prayer in the petition. He has stated that others similarly situate having been given the benefit of past service, both for the purpose of seniority as well as for the purpose of fixation of pay and other conditions of service, there is no justification to deny the petitioner of equal treatment by treating him as a fresh recruit w.e.f. 4.1.1971. The claim for equal treatment is based on the decision of the High Court in three cases, copies of the judgements have been produced by the petitioner as per Annexures 'A', 'B' and 'C'. The first judgement was rendered on 1.10.75, the second was rendered on 1.8.1984 and the third was rendered on 6.11.1981. The petitioner claims that he should be treated on par with the persons who were granted relief under the three judgements of the High Court. It is not possible to take the view that the petitioner is similarly situate. Firstly, he is not similarly situate because the petitioner has accepted a fresh appointment as Police Constable on 4.1.1971 which was offered to him. That was not the position

in regard to the cases in which the above three judgements were rendered by the High Court of Delhi. Those are the cases in which the High court quashed the order of termination and directed reinstatement in service. Secondly, the petitioner is not similarly situate because he did not secure the annulment of the order of termination. He cannot claim such relief now as we have no jurisdiction to entertain the matter. We have, therefore, no hesitation in holding that the petitioner cannot secure relief on the principle of equality.

5. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(V.S. MALIMATH)  
CHAIRMAN

'SRD'  
111292