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R.A. NO. 24 of 1989
in
O.A.NO. 2087 of 1988

Dt. 31-3-1989.

M.L. Nijhawan .. applicant/applicant

vs.

Union of India .. Respondent/Respondent

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ORDER

1. This is an application for review of our order in O.A.NO. 2087 of 1988. In O.A.NO. 2087/83, we had dismissed the applicant on the ground that "the application is not maintainable in view of the provisions of section 21 of the Administrative Tribunals Act. The Tribunal has no jurisdiction to entertain an application in respect of a cause of action which arose prior to 1-11-1982 in view of the provisions of Section 21 of the Administrative Tribunals Act xx xx xx The reliefs claimed in the present application pertain to a period prior to 1-11-1982."

2. The applicant seeks a review for the following reasons.

i. In B.Kumar Vs. Ministry of Defence, the Tribunal had held that:

"While it is true that limitation has to run from the date of rejection of a representation the same will not hold good where the Department concerned chooses to entertain a further representation and considers the same on merits before disposing of the same. Since it is in any case open to the Department concerned to consider the matter at any stage and resides the grievance or grant the relief even though

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earlier representations have been rejected, it would be inequitable and unfair to dismiss an application on the ground of limitation with reference to date of earlier rejection where the concerned Department has itself chosen, may at a higher level to entertain and examine the matter afresh on merits and rejected it. This is what exactly happens in the present case."

In this case, the Department continued to entertain his representations and the applicant was called by the Joint Secretary, Department of Personnel for discussion vide their office letter dated 27-10-1987 and once again summoned telephonically on 22-4-1988. The ratio in Kumar's case is applicable.

ii. On 30-7-1986 the applicant was informed by the Department of Supply in its letter A-19012/7/73-Admn, dated 30-7-1986 that "the Review DPC in your case has been held and the recommendations of Department of Personnel and Training in the matter awaited." It is evident from this letter that the matter is still pending in the Department and had not been rejected totally. The applicant states that he could not enclose this letter to the Original Application due to ignorance of legal procedures. If the letter dated 30-7-1986 and the fact that the Joint Secretary had called him for discussion are taken into consideration the application is within the period prescribed.

3. We have considered these points. In our Judgment dated 6-2-1989, we had referred to the Memorandum of the Department of Supply dated 30th June, 1987 (Annexure A-7 of the main application) which was a reply to the applicant stating that all facts referred

to in the representation of the applicant dated 31-8-86 had been duly taken into account while refusing his seniority in the Grade I of the CSSS with effect from 3-7-1987. This letter was merely a reiteration of the earlier rejection order and would, therefore, not give a fresh cause of action to the applicant. We had also rejected the contention of the applicant that the limitation should be counted from 4th August, 1987 that is, the date on which he made the representation.

4. The main ground now urged is that due to ignorance of law, he had failed to place before the Tribunal the letter no. A-19012/7/73-Admn., dated 30-7-1986. Even if we take this order, the application should have been filed within one year from 30-7-1986 i.e., before 30-7-1987. The applicant filed the application on 24-10-1988 i.e., after a period of one year. His contention that he was called by the Joint Secretary and he was, therefore, waiting for the outcome would not save the application from limitation. The ratio in Kumar's case would not apply to the facts of this case. In the circumstances, we find no reason to review the order passed in O.A.NO. 2087 of 1988 on 6-2-1989. The Review Application is rejected.

Omni

(P.K.KARTHA)
VC (J)

B.N.Jayasimha

(B.N.JAYASIMHA)
VC (A)