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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. O.A. 1521/90

Date of decision: 26.7.91

Arjun Singh & Others

Applicants

Vs.

Vs.

Union of India & Others

Respondents

PRESENT

Shri B.S. Mainee, counsel for the applicant.

Shri N.K. Aggarwal, counsel for the respondents.

CORAM

Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Miss Usha Savara, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

This O.A. was filed by the applicants under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as 'Act') with the prayer to quash the impugned order dated 27.6.90 (Annexure A-1) and direct the respondents to assign seniority to them from the date from which vacancies against 10% quota had arisen prior to 21.12.1981. They have also prayed for direction to the respondents to be issued by this Tribunal for promotion as well as for fixation of pay.

2. The respondents on notice have filed their return and by way of M.P. No. 1301/90 have amended their return and raised the preliminary objection that the O.A. is barred by limitation. Consequently, we heard the learned counsel on admission and also on limitation.

3. The applicants filed the representation before the competent authority which was rejected on 12.3.85. They filed the second representation on 28.4.86 which was considered and rejected by the respondents on 14.12.88. Thus, the contention of the respondents is that the O.A. should have been filed within 18 months from

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the date of the rejection of the 1st representation on 12.3.85 or within six months thereafter. This O.A. was filed by the applicants on 25.7.90. Thus, the respondents object that the O.A. is hopelessly barred by limitation and hence it should be dismissed at the admission stage.

4. Shri B.S. Mainee, learned counsel for the applicants, has placed reliance on the case of B. Kumar vs. Union of India & Ors (A.T.R. 1988(1) C.A.T. 1) decided by a Division Bench of this Tribunal. For convenience we reproduce the observations of the Bench:

"While it is true that limitation is 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 a matter at any stage and redress the grievance or grant the relief, even though earlier representations have been rejected, it would be inequitable and unfair to dismiss an application on the ground of limitation with reference to the date of earlier rejection where the concerned Department has itself chosen, may be at a higher level, to entertain and examine the matter afresh on merits and rejected it. This is what exactly has happened in the present case."

The learned counsel of the applicants, Shri Mainee, from this contends that though the representations were filed and rejected in 1985 and 1988, yet they were not communicated to the applicants and that is why when the order at Annexure A-1 was passed on 27.6.90 and which was communicated to them, the period starts running from this date. This argument is controverted by Shri N.K. Aggarwal, learned counsel for the respondents. His sole contention is that the cause of action in filing the O.A. by the applicants arose on 12.3.85 when the first representation was rejected. He further contended that assuming ^{that} the 1st representation was rejected by the G.M., then the second representation was rejected by the proper authority on 14.12.88 and hence the period of limitation starts running from 12.3.85 and not 14.12.88.

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5. In the case of B.Kumar (supra) it has further been observed that for any application under Section 19 of the Act, specific provision of limitation has been provided and the matter has to be considered only with reference to the express provisions of the scheme of the Act. In the case of S.S. Rathore vs. State of Madhya Pradesh (1989 (2) SCALE p. 510), the apex court has observed that the cause of action shall be deemed to have arisen only when the representation is made and where no such order is made though the remedy has been availed of, it shall arise after six months from the date of filing of the representation though no final order has been passed. In this judgement of the apex court (S.S. Rathore (supra)) it has further been held that repeated unsuccessful representations not provided by law are not governed by this principle i.e. successive representations shall not provide a fresh cause of action to the applicant. In this case, the first representation was rejected on 12.3.85 and the cause of action begins from this date and the O.A. should have been filed within one year or six months thereafter by the applicants, but the applicants waited for a decision to be communicated ^{to them} and remained reminding the respondents to inform them of the decision. The law clearly provides, under Section 21 of the Act, that if the representation is not decided within six months from its filing, then, without waiting for the answer or order, an applicant can file the O.A. under Section 19 of the Act. In such a situation, the preliminary objection of the respondents has to be sustained and this O.A. has to be dismissed as barred by limitation. The parties shall bear their own costs.

Usha Savara
(USHA SAVARA)

MEMBER (A)

Ram Pal Singh
(RAM PAL SINGH)

VICE-CHAIRMAN (J)