

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(16)

M.P. NO.29/91 in O.A. NO.2486/90

24.02.1992

SHRI RADHEY LAL

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SH.D.S.CHOUDHARY

FOR THE RESPONDENTS

...SH.V.K. RAO

1. Whether Reporters of local papers
may be allowed to see the judgement? *je*
2. To be referred to the Reporter or not? *VS*

JUDGEMENT (ORAL)
(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant is working in T.C. Service as Group-B Gazetted Officer under the control of the respondents. He is aggrieved by the adverse remark for the year 1984-85, which was communicated to the applicant on 22.8.85. The representation was made by the applicant against this adverse remarks on 6.11.85 (Annexure A3) addressed to the General Manager, Delhi Telephones, New Delhi. This has been rejected by the Additional General Manager (LD) by the order dt.29.6.88 (Annexure A4). The applicant again preferred an appeal against this order to

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Director General, Telecom on 2.7.88/2.8.88 (Annexure A5).

This representation appears to have been disposed of by Chief General Manager by the order dt.26.6.89 (Annexure A5). The applicant again preferred an appeal against the order of 26.6.89 to Chairman, Telecom Commission (Annexure A6) on 27.7.89. This alleged appeal of the applicant was disposed of by the Chairman, Telecom Commission and communicated to the applicant by the impugned order dt.19.3.90 (Annexure A6) and communicated to the applicant by the Memo dt.26.3.90. In the Original Application, which has been filed on 24.11.90, the applicant has claimed the relief to quash the adverse remark dt.22.8.85 (Annexure A2), order passed by Additional General Manager (LD) dt.29.6.89 (Annexure A4), order dt.25.1.89 and order dt.19.3.90 (Annexure A6). The applicant has also claimed the relief of crossing of EB w.e.f. 25.8.87.

The respondents contested the application and filed a reply raising a preliminary objection that the application is barred by limitation as laid down under Section 21 of the Administrative Tribunals Act, 1985. Prior to that, an MP No.29/91 has been moved on 12.12.90 for condonation of delay. It is this MP which is being adjudicated upon after considering the reply of the respondents which will decide the fate of the Original

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Application whether it should be entertained for consideration or not. However, before commencing the argument, it was desired that the arguments be also advanced on merits, but the learned counsel for the applicant desired the restriction of the arguments to the point of limitation only.

It has been argued firstly that the present application is within time because the applicant has come against the final order of rejection by the Chairman, Telecom dt.19.3.90 communicated to him by, the Memo dt.26.3.90. This application has been filed on 24.11.90 and if this order is taken to be a final order of rejection of the grievance of the applicant, then of course, the application is within time. But on the safer side, the applicant has moved an application where it is said that the respondents were actually considering the representations of the applicant and they finally disposed of them in March, 1990. It is further stated that the original representation of the applicant addressed to the General Manager was not even seen by him and instead, the same was disposed of by the Additional General Manager.

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It is further stated that in the said application that subsequent representation meant for the Director General was not forwarded to him. Instead the same was disposed of by the General Manager and his last representation, was disposed of by Directorate of Telecom against which the present application has been filed. In fact, what is urged in this application, that does not make out any ground for condonation of delay. The applicant has not shown as to what was the hurdle coming before him in assailing the earlier orders rejecting his representations against the adverse remarks for the year 1984-85. What has been stated is that the applicant was pursuing the remedy one after the other departmentally and when he was given a final reply, then he has come to the Tribunal. This is more a matter of fact, which is to be adjudged on the basis of the Extant Rules.

The learned counsel for the respondents, Mr.V.K.Rao relying on the decision of Ramesh Singh Vs.UOI, 1989(10) ATC 361 of the Jabalpur Bench, urged that there is no statutory provision, wherein after the rejection of the first representation which is allowed under the administrative instructions, to make repeated representations by way of appeal to the higher authorities.

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The status enjoyed by the applicant is of Group 'B' officer in T.C. Service which is a gazetted rank and expected of him by the length of service he has put in, the relevant administrative instructions under which he has to exhaust his departmental remedy and not take the same as a punishment under statutory rules pursuing, the decision passed on his first representation by way of first appeal, then second appeal and so on.

Regarding the point taken by the learned counsel that his representation was not properly considered by the competent authority, there is not much ~~ex~~ ^{are} to grind. After the representation made by the applicant in November, 85 (Annexure A3), he was informed of its rejection by the Additional General Manager (Long Distance) by the order dt.29.6.88. He has also come before this Tribunal for quashing this order. This order was assailed by the applicant himself by way of appeal which has not been statutorily provided and it was also rejected by the order dt.26.6.89 (Annexure A5) collectively and in para-1, it is mentioned that the erstwhile Additional General Manager (LD) and now General Manager (LD) of this office on ^{consideration of facts} ~~consultation~~ rejected the same.

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Be that it may be, the applicant cannot pursue a remedy departmentally once it has been disallowed because he has to make a challenge before the Tribunal against an order by which he is aggrieved and the order in this case has been rightly assailed by the applicant is of 29.6.1988.

The law has been clearly laid down in the case of S.S.Rathore Vs. State of M.P., AIR 1990 p-10 where the Hon'ble Supreme Court has categorically laid down that non statutory representation will not in any way enhance the period of limitation which has been prescribed under Section 21 of the Administrative Tribunals Act, 1985.

Again in the recent decision of the State of Punjab Vs. Gurdev Singh, ^{1991(4) S.C.E. P.1} Judgement Today 1991, it is stressed that in the service matter, limitation is also to be seen and it is a viable defence for the respondents or opposite party.

Now coming to the grounds for condonation of delay, a person has to make a substantial and sufficient cause, which is to be believed by a reasonable person. What is stated in this MP is only that the applicant was only pursuing his remedy departmentally which he could not

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and so as a matter of right he could pursue them till 1989. The matter of adverse remarks is of the year 1984-85 dt.22.8.85 and the rejection of the representation is dt.29.6.88. In order to go through the last impugned order dt.19.3.90 obviously, the earlier orders passed by the respondents have also to be gone into. What was not directly allowed to the applicant after such a period of more than two years cannot be allowed in another way because ultimately it is the order of 29.6.88 which has been subsequently assailed by the applicant departmentally by way of non statutory representation as allegedly referring them to be appeals. Thus no sufficient and reasonable cause is made out and this is ~~not~~ ^{also not} the case of condonation of delay on the basis of law relied on by the learned counsel for the respondents. ^(Supra)

In view of the above, MP 29/91 is dismissed.

As a consequence to that, OA 2486/90 is dismissed as time barred leaving the parties to bear their own costs.

J. P. SHARMA

(J. P. SHARMA)
MEMBER (J)
24.02.1992

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