

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

15

O.A. NO.2618/90

DATE OF DECISION: 16.11.92

INDERJIT SINGH

....APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

SHRI R.V. NAIK

....COUNSEL FOR THE APPLICANT

SHRI N.K. AGGARWAL

...COUNSEL FOR THE RESPONDENTS

CORAM:

HON'BLE JUSTICE SHRI RAM PAL SINGH, VICE CHAIRMAN (J)

HON'BLE SHRI I.P. GUPTA, ADMINISTRATIVE MEMBER.

JUDGEMENT

(DELIVERED BY HON'BLE JUSTICE SHRI RAM PAL SINGH)

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1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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1. The applicant, by this OA, filed under Section 19 of the Administrative Tribunal's Act of 1985, has prayed for his seniority from 13.03.1973 to 30.05.1977 with consequential benefits. He also prays for his regularisation against the reservation vacancies and quota.

2. Respondents on notice appeared and filed their reply to the MP No.3120/91, containing the prayer for condonation of delay in filing this OA after a long lapse of time. Though, earlier the objection of limitation was raised by the Bench, but the MP containing the prayer for condonation of delay was taken up for consideration on 30.1.1992 and the reply of the respondents was also considered. The respondents orally, without filing their counter, also raised the preliminary objection of limitation. This OA was filed by the applicant on 19.11.1990 while the cause of action for filing this OA arose in year 1973 and then in year 1977. The MP containing the prayer for condonation of delay is nothing but written argument and sufficient cause for filing the OA after a long lapse of more than 16 years has not been explained. According to the OA, the cause of action arose in year 1973/77 when the Administrative Tribunal's Act was not in force.. The applicant could

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have availed this remedy, as prayed for in this OA, either by filing a civil suit or by filing a writ petition under Article 226/227 of the Constitution of India in the High Court. But till November, 1985, the applicant did not seek any remedy in these forums. When the Administrative Tribunal's Act of 1985 came into force on 22nd November, 1985, the period for filing the original application under Section 19, was provided in Section 21 of the Act. Sub-section 3 of Section 21 of the Act contains the provision for condonation of delay in filing the OA if sufficient cause is shown by the applicant. The learned counsel for the applicant Shri R.V. Naik has, for quite long time, argued that this OA should be taken to have been filed within the period of limitation because of the judgements given by the Apex Court in the case of Collector Land Acquisition Anant Nag (AIR 1987 SC 1353). In this case, the Civil Appeal was filed by the Collector Land Acquisition Anand Nag after a delay of 4 days in which their Lordships held the view that under Section 5 of the Limitation Act, the courts should adopt liberal approach. Shri Naik also cited plathora of this Tribunal and also of the Apex Court's judgements in support of his contention and contended that a liberal view should be taken so far as the question of limitation is concerned. We need not refer to those judgements which are factually not similar in nature.

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He further contended that he filed the representation after a gap of 11 years when the cause of action arose. He also drew our attention to another representation filed in year 1988 (Annexure 12). He also argued on doctrine of estoppel and doctrine of distributive justice pressing his emphasis upon the ^{al} Constitution ^A provisions provided in the directive principles. We need not refer to all those arguments in detail because we are concentrating only upon the preliminary objections raised by the respondents and also by the Bench that this OA is barred by limitation with reference to Section 21 of the Act. For convenience, we reproduce the provisions of Section 21 of the Act:

"21. Limitation - (1) A Tribunal shall not admit an application, -

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

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(b) in a case where an appeal or representation such as is mentioned in clause (b) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where -

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

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the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or subsection (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making an application within such period."

3. This provision clearly indicates that whenever an applicant is aggrieved, he may file the original application under Section 19 of the Act within one year from the date he is aggrieved by some order or action of the respondents. The applicant further gets a period of six months if he has preferred an appeal or representation mentioned in Section 20 of the Act. Thus, a total period of limitation available to the applicant is 18 months. As the cause of action arose in the year 1973/77, the

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applicant failed to avail the remedy of either civil suit or of filing writ petition in the High Court under Article 226/227 of the Constitution of India. After coming into force of this Act in November, 1985, the applicant should have filed this OA within a period of 18 months from that date. As indicated, the OA was filed in November, 1990, after five years of coming into force of the Administrative Tribunal's Act. However, sub-section 3 of Section 21 provides that if sufficient cause is shown for filing the original application beyond the period of limitation, then the delay can be condoned. Even a single day's delay has to be explained by the applicant. On perusal of this MP, sufficient cause has not been shown as to what prevented him from remaining idle and not filing the OA for such a long time.

4. Section 21 is a special provision provided by the Parliament under this Act with the intention of providing quick justice in service matters to the central employees. Entire intention of the Parliament will be defeated if the arguments of Shri Naik are accepted. A special period of limitation was correctly provided by the Parliament keeping in view the urgency of disposal of the cases arising in service matters. The other intention was also to provide quick justice to the Government employees.

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Needless to say, this OA is hopelessly barred by limitation and no sufficient cause exists for condoning the delay.

5. The Apex Court in the case of Bhoop Singh (JT 1992 (3) SC 322) has laid down the law in following words:-

"Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief, chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed...Article 14 of the principle of non-discrimination is an equitable principle and,

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therefore, any relief claimed on that basis must itself be founded on equity and not be alien to that concept. In our opinion, grant of the relief to the petitioner, in the present case, would be inequitable instead of its refusal being discriminatory as asserted by learned counsel for the petitioner. We are further of the view that these circumstances also justify refusal of the relief claimed under Article 136 of the Constitution."

The Apex Court further observed

"It is expected of a government servant who has a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years. During the interregnum those who have been working gain more experience and acquire rights which cannot be defeated casually by collateral entry of a person at a higher point without the benefit of actual experience during the period of his absence when he chose to remain silent for years before making

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the claim. Apart from the consequential benefits of reinstatement without actually working, the impact on the administrative set-up and on other employees is a strong reason to decline consideration of a stale claim unless the delay is satisfactorily explained and is not attributed to the claimant. This is a material fact to be given due weight while considering the argument of discrimination in the present case for deciding whether the petitioner is in the same class as those who challenged their dismissal several years earlier and were consequently granted the relief of reinstatement."

In view of the judgement referred, by the Apex court, in the case of Bhoop Singh (supra), we need not examine another judgement either of this Tribunal or of the Apex Court, which were not directly on the issue involved.

6. The counsel for the respondents Shri N.K. Aggarwal was also heard on behalf of the respondents who had attacked and controverted all the contentions of Shri Naik. In the conspectus of the above, we are of the view that this OA is hopelessly barred by

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limitation. We are also of the view that the MP filed by the applicant for condoning the delay, does not contain sufficient cause so as to condone the delay in filing this OA. The OA is, therefore, dismissed as barred by limitation, with no order as to costs.

I.P. Gupta
(I.P. Gupta) 16.11.92

Member (A)

Ram Pal Singh
(Ram Pal Singh)
Vice Chairman (J)