

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH,  
NEW DELHI.

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Date of Decision: 14.8.92

DA 1842/91

GOVIND RAM ARYA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

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

For the Applicant

... SHRI ROMESH GAUTAM.

For the Respondents

... SHRI JOG SINGH.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporters or not ?

JUDGEMENT

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

The applicant, Joint Director of Employment Exchange, has filed this application for correction of his date of birth from 8.3.85 to 24.9.39. The applicant made representation but the same has been rejected by the Impugned Order dated 30.7.91 (Annexure A-1). By this impugned order the request for the correction of date of birth has been rejected. The applicant has claimed the relief that the respondents be directed to change the date of birth of the applicant as stated by him.

(b)

2. The facts of the case are that the applicant was admitted in Primary School in District Almora in U.P. on 2.1.1947. Thereafter the applicant continued his study in the different schools and colleges. His date of birth recorded at the time of admission to the school was 8.3.1935, in fact his date of birth is 24.9.1939. The date of birth recorded in the High School Certificate of the U.P. Board is also 8.3.1935. The applicant requested to the Secretary of the U.P. Board for correction of his date of birth but his request was not accepted. The applicant sent other representation to the Director of Education, U.P. but his date of birth was not corrected. He made his representation to the Deputy Secretary for the correction of date of birth on 8.9.1977 and the Deputy Secretary of his department informed him by the letter dated 23.11.1977 that the request for change of date of birth cannot be entertained at that juncture. After that the applicant made representation again on 8.1.1990 to the Director General of his department but the said representation was rejected on 8.5.1990. Lastly, the applicant made representation on 19.3.1991 to the Secretary, Ministry of Labour but the same representation has been rejected by the impugned order and ultimately the applicant has filed this application.

3. The respondents contested this application and took the preliminary objection that the application is

barred by limitation. A right to sue occurred to the applicant without his representation was rejected in 1977. The applicant has not availed of the remedy at that time. Under Section 21 of the Administrative Tribunals Act, 1985 the applicant could have come for the request of his grievance within a particular period of limitation. Since the applicant's representation already stood rejected in 1977 by the order dated 23.11.1977 (Annexure A-10) then the applicant could have gone to the competent court for the redress of his grievance and after 1977 the applicant only represented on 8.1.1990 (Annexure A-11). Thus, the present application is hopelessly barred by time.

4. Though, the learned counsel for the applicant has referred to the case of Hira Lal Vs. UOI (1987(3) ATC 130) but the facts of that case do not apply because there the applicant was a Ball Picker Boy at the relevant time when he joined service he was illiterate and further, that application was within time. Here the applicant was told as early as in 1987 that he has not a case for correction of date of birth but still he continued to make representation which will not add limitation. The learned counsel for the applicant has also referred to certain documents on record supporting his case for correction of date of birth. Even when the Secretary, U.P. Board and the Director of Education, U.P. disallowed the request

of the applicant for correction of date of birth in the High School Certificate. The applicant did not go to the Civil Court at the relevant time for the redress of his grievance by a Civil Suit or by following a Writ in the competent court. After 1977, the applicant made representation in 1990 i.e. after 13 years.

5. In the above circumstances, the present application is wholly barred by limitation as held in S.S. Rathore Vs. State of Madhya Pradesh (1990 AIR SC 10), the relevant paragraphs are reproduced below:-

"20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.

21. It is appropriate to notice the provision regarding limitation under S.21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.

22. It is proper that the position in such cases should be uniform. Therefore, in every such case until the appeal or representation provided by a law is disposed of, accrual of cause of action shall first arise only when the higher authority makes its order on appeal or representation and where such order is not made on the expiry of six months from the date when the appeal was filed or representation was made. Submission of just a memorial or representation to the Head of the establishment

shall not be taken into consideration in the matter of fixing limitation."

6. In view of the above facts, the present application is barred by limitation and is dismissed leaving the parties to bear their own costs.

Domestic  
14.8.92  
( J.P. SHARMA )  
MEMBER (J)