

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Reg. No. O.A. 851/91.

DATE OF DECISION: 12-12-1991.

Beni Ram

....

Applicant.

V/s.

Union of India & Ors.

Respondents.

CORAM: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).
Hon'ble Mr. I.P. Gupta, Member (A).

Shri M.K. Gupta, counsel for the applicant.

Shri P.P. Khurana, counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. I.P. Gupta, Member(A)).

JUDGMENT

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant was working as SFA (Driver) in the Research and Analysis Wing (RAW), Cabinet Secretariat, Government of India. On 6.12.1980, the applicant, along with others, was dismissed from Government service under Article 311(2) of the Constitution in connection with some unrest in the Department. The applicant, along with nine others, moved the Hon'ble Delhi High Court and the Hon'ble Supreme Court challenging the order of dismissal. The Hon'ble Supreme Court, vide its order dated 12.9.1985, upheld the dismissal, but directed the respondents to hold a departmental inquiry against any employee who filed an appeal against the order of dismissal by 31.10.1985. The applicant alleges that he sent his appeal under Postal Certificate (copy of appeal along with photo copy of Postal Certificate is enclosed at Annexure P-1) from his home town in Himachal Pradesh on 17.9.1985 requesting for an inquiry into the allegations against him. This appeal was filed before the stipulated date of 31.10.1985. Sometime in 1986, the applicant came to know that the respondents had issued orders for holding inquiries against all other dismissed employees. The applicant

(P)

however, did not receive any such order. The respondents allege that no appeal dated 17.9.1985 was received by them.

2. The applicant also wrote letters to the respondents on 9.2.1987, 27.7.1987 and 14.9.1987, requesting for early action. The representations of 9.2.87 and 27.7.1987 explicitly refer to the earlier application for inquiry dated 17.9.1985. The applicant was informed by the respondents by Memorandum dated 15.10.87 with reference to the applicant's representation of 14.9.87 that his prayer has been rejected by the Appellate Authority being time-barred. The applicant made yet another representation on 6.6.1989 and in reply, the respondents issued a Memorandum dated 12.7.89 to the effect that 'his request has been considered carefully but has not been approved by the Competent Authority'. Yet another representation dated 17.7.89 was sent by the applicant, but this was also turned down by Memorandum dated 8.8.89 and the Department invited the attention of the applicant to their earlier Memo dated 12.7.89.

3. The applicant has sought ~~for~~ the relief for setting aside the Appellate Authority's orders dated 15.10.87, 12.7.1989 and 8.8.1989, rejecting his appeal for inquiry. He has also requested for a direction to the respondents to hold an inquiry against the applicant in accordance with the order of the Hon'ble Supreme Court.

4. The learned counsel for the applicant argued that the first application for inquiry was made well within time stipulated by the Hon'ble Supreme Court and, therefore, as per directions of the Supreme Court, a departmental inquiry should have been held in this case. He also argued that all other employees who were dismissed along with the applicant under Article 311(2) of the Constitution have been reinstated after inquiry and only the case of the applicant remains.

5. The learned counsel for the respondents contended that since the applicant did not file any appeal upto 31.10.1985, the question of any departmental inquiry did not arise. Some representations were received from the applicant, but they were all after 31.10.1985 and, therefore, the applicant has no locus standi to file any application before the Tribunal at this stage. They further contended that the application is barred by limitation.

6. Analysing the facts and arguments in the case, we find that the relief sought is for quashing the Appellate Authority's orders dated 15.10.87, 12.7.89 and 8.8.89. The application has been filed on 14.3.91. The request for condonation of delay has been made on the ground that the applicant has been residing in Himachal Pradesh and was unable to obtain legal advice and that he is illiterate. Being a driver in the Cabinet Secretariat, he would not be illiterate and Himachal Pradesh is not such a remote place as to make the applicant unable to obtain legal advice. The delay in filing the application is considerable and there are hardly sufficient grounds for not making the application within the prescribed period. The application is clearly barred by limitation and is dismissed, with no order as to costs.

I. P. Gupta
(I.P. GUPTA)
Member(A)

Ram Pal Singh
(RAM PAL SINGH)
Vice Chairman(J)