

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(4)

O.A. 1041/91

Date of decision: 1.10.91

R.Sundersanan

.. Applicant.

Sh.Sanjiv Madan

.. Counsel for the applicant.

Versus

Union of India & Others

.. Respondents.

Sh.K.S.Dhingra

.. Counsel for the respondents.

(O R D E R)

(Delivered by Hon'ble Sh. Justice Ram Pal Singh,
Vice-Chairman (J)).

The applicant, by this O.A., filed under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as Act), has prayed for quashing of the order dated 9.1.90, passed by the respondents and a direction to them to revive the offer of appointment w.e.f. 18.11.86 with consequential benefits.

2. On notice the respondents No.1 and 2 appeared and filed their counter reply wherein they have raised the preliminary objection that this O.A. is barred by limitation because the offer of appointment was cancelled during August '1987 and not on 9.1.90, as contended by the applicant in his O.A. Hence, this O.A. is hopelessly barred by limitation, which is provided by Section 21 of the Act. They further contended that the cause of action arose only in August, 1987. Hence, this O.A. should be dismissed on the sole ground of being barred by limitation.

3. The applicant computes the limitation from 9.1.90 which is a letter issued by the office of the Joint Secretary (Admn.), Ministry of Defence, addressed to the applicant. This letter is a reply to the application sent by the applicant to the office of the Joint Secretary on 5.9.89 and 5.12.89. By this letter the applicant was informed that it has not been found feasible to agree to it at this stipulated stage.

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As such your case may be treated as closed and no further correspondence on this subject will be entertained in future".

4. The name of the applicant was sponsored by respondent No.3, Delhi Administration for appointment through U.P.S.C. His name was recommended for appointment to the post of Grade 'C' Stenographer on the basis of U.P.S.C. examination 1985, by Government of India, Ministry of Defence on 18.11.86. The applicant accepted the offer on 24.12.86 and he was asked to obtain the relieving orders. He, therefore, urges that respondents No. 1 and 2 should have revived the offer of appointment and they should have exercised the discretion in his favour. He lays the blame upon respondent No.3, Delhi Administration, for not relieving him inspite of his request. According to the applicant, he had already sent his acceptance on 24.12.86.


5. On perusal of the counter of the respondents it becomes clear that the applicant was to report for duty latest by 16.10.86 and the answering respondents remained taking up the matter with the authorities with whom he was working. In spite of several reminders the applicant did not report for duty by January '87, hence, the offer of appointment was cancelled. The respondents have relied upon the O.M.No.9/23/71-Est.(D) dated 6.6.78 of the Department of Personnel and Administration Reforms (R-3) in which it is provided that total period during which the offer of appointment is to be kept open should not exceed the period of nine months and if a candidate does not join during the stipulated time, the offer of appointment should lapse and the offer of appointment which has lapsed should not ordinarily be revived later. They have also taken the stand that as the applicant did not report for duty by 26.6.86 the offer of appointment given to him was cancelled by letter dated 19.8.87. It thus appears that the appointment was cancelled in August '87. According to Section 21 of the Act the period of limitation provided

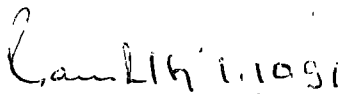
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is of one year from the date of the impugned order. The applicant could file a representation, if any, within six months thereafter. Thus the period of limitation lapsed in February '89. This O.A. has been filed by the applicant on 26.3.91. Thus, prima facie this O.A. is barred by limitation.

6. In this case the applicant did not file any representation within six months, from August '88. The applicant has also not filed any application under sub-section (3) of Section 21 of the Act for condonation of the delay. In such a situation the O.A. filed by the applicant is hopelessly barred by limitation. Consequently, it is dismissed. In the facts and the circumstances of the case the parties are directed to bear their own costs.


(I.K.RASGOTRA) 1/17/91
MEMBER(A)


(RAM PAL SINGH)
VICE CHAIRMAN (J)