

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 2221/92 MP 2528/92 .. Date of decision: 10.08.93

Sh. M.B. Sharma .. Applicant

Versus

Union of India .. Respondents

CORAM

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. S. Gurushankaran, Member (A)

For the applicant .. Sh. George Parakkal, Proxy
Counsel for Sh. J.P. Varghese,
Counsel.

For the respondents .. Mrs. Avnish Ahlawat, Counsel.

JUDGEMENT (Oral)

(Delivered by Hon'ble Mr. J.P. Sharma, Member (J)

The applicant Sh. M.B. Sharma was employed in the Sanathan Dharma Ayurvedic College, Delhi since August, 1984. The impugned order dated 28.06.88 was passed after there has been decisions arrived at by the Committee to the following effect :

"In pursuance of the decision taken by the E.C. in the meeting held on 26.05.88 under the Chairmanship of Lt. Governor, Delhi and as per report of the Committee, constituted to go in to the details of surplus staff of S.D. Ayu. College. I am directed to intimate that part time services of the following named Person(s) who have gone surplus due to suspension of IIInd year class, are no more required in the college from the date of the issue of this order dated 23rd June, 1988".

The grievance of the applicant is against this order and he has prayed for the grant of following reliefs :-

(13)

(a) Declare the aforesaid order i.e. 24.06.88 as void and direct the respondents to reinstate the applicant with all consequential benefits;

(b) Direction to the respondents to pay equal pay for equal work on the basis of the payment being made in Nehru Homeopathic College, Defence Colony, New Delhi;

(3) Further direction to grant all benefits being paid to the permanent employees in the Government.

This application has been filed by the applicant in August, 1992 with MP No. 2528/92 for condonation of delay praying that the delay be condoned in the interest of justice. This is also supported by an affidavit supporting the contentions raised in the MP.

Notice was issued to the respondents. Mrs. Avnish Ahlawant appeared for the respondents and orally opposed the admission by advancing arguments. Administrative Tribunals Act, 1985 is a self-contained act and prescribes under Section 21, the limitation within which the aggrieved person can assail the grievance or the impugned order. Only a period of one year is laid down under Section 21(1) of the said Act and if the statutory representation is required to be made then waiting of 6 months is further added to the period of limitation. The applicant could have assailed the impugned order in 1990. Obviously, the application is barred by limitation. The limitation gives a precious right to the adversary but such technicalities should not outweigh the merit of the case. However, in every case as also in the service matter, there should be reasonable and probable cause which prevented the aggrieved party not coming to the competent forum at the proper time.

The averments made in the MP for condonation of delay only refers to decisions of certain cases by the Principal Bench. It is nowhere provided that the aggrieved party should wait the outcome of the litigation. No judgement in any case extend the period of limitation. It is another fact that if a decision is given in a case and if similarly situated persons can be benefitted, the respondents may also consider extending the same benefit of that judgement to similarly situated incumbents. But that does not give a vested right to any such aggrieved persons. After going through the decision given by the Bench in another case, the applicant has to show after he was declared surplus in June, 1988 where and how he was prevented in assailing his grievance and there were unavailable reasons beyond his control. From para 1 to para 8 of the MP, there is no revelation of any such facts which can be taken to be reasonable and probable for not coming to the Tribunal in time. The applicant is out of service since June 1988. He was awaiting the result of legal proceedings of those who after being declared surplus have already been absorbed and given the benefits. MP for condonation of delay has no merit and is disallowed.

In view of the above facts, the application is hopelessly barred by limitation and is dismissed. We are supported in our view by the authority of the Hon'ble Supreme Court in the case of State of Punjab Vs. Gurdev Singh reported in 1991 (4) SCC Page 1. We are also supported in our view taken by the Hon'ble Supreme Court in the case of Constables of Delhi Police- Roop Singh V-s U.O.I. reported in 1992 (3) SCC Page 322. [The MP for condonation of delay does not make out a case for condoning the delay for four years. The MP is also dismissed, ~~as barred by limitation.~~] ✓

S. Gurushankaran
(S. Gurushankaran)
Member (A)

J. P. Sharma
(J.P. Sharma)
Member (3)