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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. No. 97/93 in
O.A. No. 2007/92

Date of decision 12.5.93

Shri Phool Chandra

.... Petitioner

Versus

Union of India & Others

.... Respondents

O R D E R

This R.A. has been filed by the applicant in OA No. 2007/92 which was rejected as barred by limitation by order dated 14-1-1993. The review applicant has alleged that there is error apparent on the face of record and that a legal infirmity has cropped up in the order of rejection by the Tribunal. The ground in support of this contention primarily is that the Tribunal in its order dated 14-1-1993 has relied upon the judgement of the Supreme Court in the case of S.S.Rathore vs. State of Madhya Pradesh, reported in AIR 1990 SC 10. The law laid down in para 20 of the judgement ibid is not applicable to the applicant as the remedy availed of by the applicant with regard to his grievance is not a remedy provided by law.

2. The above contention of the review applicant, in our considered view, is misconceived. The Supreme Court in S.S.Rathore's case (supra) laid down that the cause of action shall be taken to arise not

(2)

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 month's period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. On the applicant's own contention that the representation made by him was not a part of the remedy provided by law, the question of final order determining the date of cause of action does not arise in view of the law laid down by the Supreme Court. In such cases, limitation will be one year as provided in sub section (I) of Section 21 of the Administrative Tribunals Act, 1985. If the representation made by the applicant is taken to be a part of the remedy though not legal but otherwise available to the applicant, the fact cannot be ignored that he had made a representation on 31-8-89 and after no reply was received within a period of six months, he should have approached the Tribunal within a period of one year. But he filed the O.A. in 1992.

3. Another contention of the applicant is that the Tribunal suo moto took the plea of limitation. He has, however, not shown any law to the effect that the Tribunal could not on its own consider the point of limitation while considering as to whether the OA was fit for admission or not. Sub rule (3) of Section 19

(i.e.)

of the Administrative Tribunals Act, 1985 provides that on receipt of an application under sub-section (I), the Tribunal shall, if satisfied after such inquiry as it may deem necessary, that the application is a fit case for adjudication or trial by it, admit such application, but where the Tribunal is not so satisfied, it may summarily reject the application if after recording its reasons. Thus, the O.A. is not maintainable either due to ~~barred by~~ limitation or jurisdiction or any other valid reasons, it can be summarily rejected by the Tribunal after recording its reasons. The judgement sought to be reviewed in this R.A. gives the reasons for which the O.A. was rejected. As the respondents did not file any reply in pursuance of the notice on admission issued by the Tribunal, the Tribunal was fully justified in considering the question of determining the date of cause of action. It is immaterial that the O.A. was first listed before one court and later on before another court. The question of examining the ^{case} ~~case~~ did not arise at the stage of admission in view of the non maintainability of the O.A.

4. In the light of the foregoing discussions, we are of the view that the R.A. is devoid of merit and the same is accordingly dismissed. By circulation.

Signature
(J.P.SHARMA)

Member(J)

Cee.
(P.C.JAIN)
Vice-Chairman
Chandigarh Bench