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(5)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.650/92

Date of decision: 08.04.1993.

Shri Ram Prakash

...Petitioner

Versus

Commissioner of Police, Delhi

...Respondent

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman (J)
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

In person.

For the respondent

Shri A.K. Aggarwal, Counsel.

1. Whether Reporters of local papers may be allowed to see the Judgement? *no*
2. To be referred to the Reporter or not? *yes*

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(S.K. DHAON)
Vice-Chairman(J)

(6)

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For the petitioner

In person.

For the respondent

Shri A.K. Aggarwal, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. I.K. Rasgotra, Member (A))

The case of the petitioner as put-forth by him in person was that while working as Head Constable he was dismissed from service on 8.2.1968 after an enquiry was conducted against him in accordance with the Rules. His appeal and revision petition were rejected vide orders dated 30.7.1968 and 9.10.1968 respectively by the relevant competent authority.

2. Aggrieved by the above, he has filed this Original Application on 28.2.1992 under Section 19 of the Administrative Tribunals Act, 1985. The principal relief prayed for in this O.A. is that an appropriate mandamus be issued to the respondents to re-instate him in service retrospectively with all back wages and service benefits in the light of the decision of the Hon'ble Supreme Court dated 14.5.1990 in CA No.3376- 3382 of 1988.

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3. As the petitioner is seeking relief from 1968, he was asked to justify the delay in approaching the Tribunal, as otherwise his case was barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. The petitioner sought to meet this query from the Bench by submitting that he is only seeking the benefit of the judgement of the Supreme Court dated 4.5.1990. He further submitted that he has filed this Original Application in the Tribunal in accordance with the oral directions of the Hon'ble Supreme Court. These oral observations were said to have been made by their Lordships when his Writ Petition No.866/90 was dismissed as withdrawn on 17.01.1991.

4. We have considered the submissions of the petitioner and are not persuaded to accept that his Application is within the limitation. The cause of action arose in 1968 and he cannot pray for relief from that date on the ground of certain oral observations said to have been made by the Hon'ble Supreme Court. We have carefully perused the order of the Supreme Court dated 17.1.1991 and do not find any basis for these submissions. In fact the order of the Apex Court reads as under:-

"The Writ Petition is dismissed as withdrawn."

The statement of the petitioner that the Supreme Court had asked him orally to approach the Tribunal does not have any basis and, therefore, cannot help him in getting over the bar of limitation. Besides the limitation, as adverted to above, we find that the petitioner has already had one round of litigation.

5. His civil writ petition filed in the High Court of Delhi was dismissed by the said Court on 6.10.1982. He filed a S.L.P challenging the order of the Delhi High in the Supreme Court which was dismissed in limine on 23.11.1989. The petitioner, however, submits that there is no bar


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operating against him in filing an Original Application under Article 226 of the Constitution as the same is permitted by the Supreme Court in accordance with the law laid down in **Indian Oil Corp. Ltd. v. State of Bihar & Ors. 1987(1) SLJ SC 94**. This case, however, is not of help to him, as in that matter the writ petition was filed by the petitioners in the Hon'ble Supreme Court under Article 32 of the Constitution against a decision of the Industrial Court without availing of the remedy in the High Court concerned.

6. The decisions of the Hon'ble Supreme Court in other cases cited by the petitioner do not give him a fresh cause of action to agitate the matter in the Tribunal. This position is implicit in the decision of the Supreme Court in **Bhoop Singh v. Union of India and Ors. JT 1992 (3) SC 322**.

7. In the above facts and circumstances of the case, we are of the opinion that the petition is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985 and the same is accordingly dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(S.K. DHAON)
VICE-CHAIRMAN(J)

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