

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 813/92

DECIDED ON : November 6, 1992

Parvesh Kumar Kumra

... Applicant

-Versus-

Union of India & Others

... Respondents

COURT : THE HON'BLE MR. P. C. JAIN, MEMBER (A)

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri G. K. Aggarwal, counsel for Applicant

Shri K. S. Dhingra, Counsel for Respondents

JUDGMENT

Hon'ble Shri P. C. Jain, Member (A) —

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant who was UDC in the Armed Forces Headquarters Clerical Service, has impugned memo of charge dated 28.6.1982 (Annexure A-1), memo of charge dated 18.10.1982 (Annexure A-2), inquiry officer's report dated 20.6.1983 (Annexure A-3), punishment order dated 17.9.1984 (Annexure A-4) by which he was reduced to the grade of IDC for a period of two years, corrigendum dated 14.6.1985 to the above punishment order (Annexure A-5) by which the period of reduction was also ordered to operate to postpone his future increments and his pay was ordered to be fixed at Rs. 358/- in the pay scale of Rs. 260-400, and order dated 11.10.1985 (Annexure A-6) by which his appeal was rejected. He has prayed for setting aside the aforesaid impugned orders and for payment of all arrears with 23% interest compounded quarterly as UDC and Assistant as if there was no chargesheet, no

relegation of UDC seniority, no order of penalty, with further consequential/subsequential reliefs including promotions etc. On notice being issued to the respondents they have contested the O.A. They have also taken a preliminary objection that the O.A. is barred by limitation as the alleged cause of action arose in October, 1985 when his appeal was rejected by the appellate authority vide order dated 11.10.1985, and that the belated revision petition dated 29.3.1989 submitted by the applicant does not extend the period of limitation.

D 2. We have perused the material on record and also heard the learned counsel for the parties on the question of limitation.

3. Learned counsel for the applicant contended that the appeal of the applicant was rejected on the ground of delay and not on merit, and secondly, no limitation is prescribed for revision/review petition to the President and that his revision petition was duly entertained vide note dated 11.4.1991 (Annexure A-8) by which respondent No.2 informed the applicant as under :-

O "Shri PK Kumra, Asstt, may please be informed that the Revision Petition submitted by him is under examination by the Competent Authority and the outcome of the same will be intimated to him in due course."

He argued that limitation would commence on 1.4.1991 and as this application has been filed within one year thereof, the same is within limitation.

4. Learned counsel for the respondents on the other hand contended that the applicant should have filed the revision petition within a reasonable period of his appeal having been rejected in October, 1985 and should not have waited until

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March, 1989. He further contended that he should have waited only for a period of six months after filing his revision petition dated 29.3.1989 if no order on his revision petition had been passed and then filed the O.A. within a further period of one year. He, therefore, argued that even on that account the O.A. should have been filed on or before 27.9.1990 but as it has been filed only in March, 1992, it is barred by the provisions of Section 21 of the Administrative Tribunals Act, 1985. Learned counsel for the applicant relied on a judgment in the case of B. Kumar vs. Union of India : 1988 (1) AIR 1 delivered by a Bench of this Tribunal. Learned counsel for the respondents on the other hand cited the judgments in the cases of Shanti Prakash vs. Union of India : 1989 (1) AIR 591, L. R. Pathak vs. Union of India : 1988 (6) ATC 205, Dile Singh vs. Union of India : 1989 (11) ATC 401. However, we do not consider it necessary to go into all the cited judgments for the simple reason that a seven-judge Bench of the Supreme Court in the case of S. S. Rathore vs. State of Madhya Pradesh : AIR 1990 SC 10 has clearly laid down the law in the matter of limitation for proceedings before the Tribunal and according to which if no order is passed on the request of the applicant which he has made in accordance with the relevant service rules within a period of six months, he should have approached the Tribunal within the period of limitation prescribed under Section 21 of the Administrative Tribunals Act. This having not been done, the O.A. is clearly hit by the bar of limitation. Moreover, even though no limitation may have been prescribed for filing a revision/review petition under the C.C.S. (C.C.A.) Rules, yet it cannot be said that if the applicant delays filing of such a petition unnecessarily without any valid

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reason, it would extend the limitation. If such a contention were to be accepted, it may mean that if a revision/review petition is filed even after twenty years of the rejection of the appeal and such a petition is entertained, the applicant would be entitled to get his grievance adjudicated by the Tribunal even after a period of twenty years which in itself may adversely affect the seniority position of others in the cadre and burden the public exchequer with unnecessary additional expenditure in terms of consequential monetary relief. We are not in a position to accept such a contention, particularly in view of the specific period of limitation laid down in the Administrative Tribunals Act for purposes of proceedings before the Tribunal. Chargesheets which are sought to be quashed were issued in 1982. The inquiry officer's report was given in June, 1983. Punishment order was passed in September, 1984 and the appeal was rejected in ^{October} 1985. The contention of the applicant that his appeal was rejected on ground of delay and not on merits, is not substantiated by the appellate order at Annexure A-6; the appellate order specifically states that the inquiring authority held the charge of unauthorised absence proved and for the remaining charges the disciplinary authority adduced tenable reasons in support of the charges against the applicant. It is also mentioned that the appeal has not been preferred within the prescribed period of 45 days, but it is also mentioned that the appellate authority is satisfied that appeal filed by the applicant does not merit any modification of the order of the disciplinary authority. Thus, it cannot be said that the appeal was not rejected on merits.

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5. In the light of the foregoing discussion, we are of the considered view that the O.A. is barred by limitation and accordingly the same is dismissed as not maintainable.

No costs.

Signature.

(J. P. Sharma)
Member (J)

Dec 8/1992

(P. C. Jain)
Member (A)

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