

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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OA 1188/92

New Delhi this the 29th of September, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Hon'ble Shri R.K. Ahooja, Member(A)

Shri Ajeet Kumar Verma
S/O Late R.P. Verma
R/O H-22, Padmnabhpur, DURG(MP)

(By Advocate Shri S.S. Tiwari)

Applicant

Vs.

Union of India through its Secretary
Govt. of India, Ministry of Human-
Resource Development, Deptt. of Women's
and Child Welfare, Shastri Bhawan,
New Delhi

(By Advocate Shri S.M. Arif)

Respondent

O R D E R

(Hon'ble Smt. Lakshmi Swaminathan, Member(J))

This application has been filed ^{on 16.3.1992} by the applicant alleging that he has not been allowed to join his duty when he had been declared fit in 1992.

2. Learned counsel for the applicant submits that the leave of the applicant had been sanctioned upto 30.6.1984 for his prior period of illness. Thereafter he submits that he had sent ^a_{number} of leave applications supported with medical certificates for the subsequent periods of his illness from June, 1984 to December, 1984 but the same have been ignored by the respondents and rejected on untenable grounds that the same are not in proper forms. He has referred to the chargesheet that was issued to him sometimes in April, 1985 under the CCS(CCA) Rules, 1965. He has submitted that since he was not well, he was not in a position to take part

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in the enquiry and had submitted that the enquiry may be held ex-parte. The applicant thereafter amended the original application in November, 1995. In para 1, he states that the Original Application had been filed by him for quashing the order of dismissal dated 25.7.86 which was not received by him till 16.10.95, that the said order was handed over to him by the learned counsel for the respondents and hence there was need for amending the Original Application. The main prayer of the applicant is that directions should be given to the respondents to take him back in service from 1.1.1984, to fix his seniority and he be posted as Deputy Technical Advisor from back date with all consequential benefits of pay and allowances etc and other benefits as a Bhopal Gas Victim may also be given to him from December, 1984.

3. In the reply filed by the respondents, they have submitted that the applicant was initially appointed as Demonstration Officer with the respondents on temporary basis w.e.f. 22.5.65 and promoted to the post of Assistant Technical Advisor (ATA) w.e.f. 1.11.69 and held that post till the time his services were terminated. They have submitted that he was transferred from Delhi to Shillong vide order dated 25.10.1982. The applicant did not join at Shillong and proceeded on unauthorised leave on one pretext or the other. Thereafter they have submitted that they had taken a lenient view on the representation filed by the applicant and reviewed his transfer order from Shillong to Bhopal, which was nearest to his home town and also regularised his unauthorised leave upto 30.6.1984. According to them, he did not join at Bhopal also

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and remained on unauthorised leave . Thereafter disciplinary proceedings were initiated against him by issuing chargesheet on 15.3.85 and as the applicant did not attend the enquiry proceedings, the enquiry was conducted ex-parte. On the basis of the report of the Inquiry Officer, the competent authority imposed the major penalty of dismissal from service on the applicant after taking advice of the UPSC, by order dated 25.7.1986. The respondents have contended that the present application is, therefore, barred by limitation under Section 20 of the Administrative Tribunals Act, 1985. They have also submitted that as his transfer order was not cancelled, he ought to have joined duty at Bhopal and not at Headquarters, but the applicant remained on leave thereafter though his leave had been regularised only upto 30.6.84, which fact has not been disputed by the applicant.

4 Shri Arif, learned counsel for the respondents has submitted that the applicant was very much aware that he has been charge-sheeted and enquiry was being held against him. The Enquiry Officer had come to the conclusion that the applicant had not complied with the transfer order issued by the Department to join duty at Bhopal and had remained unauthorisedly absent since 1.7.84. After approval of the competent authority , the penalty of dismissal from service was imposed on the applicant which was communicated to him by letter dated 23/25 July, 1986, but the applicant refused to accept it as noted by the postal authorities on the envelope (Copy placed at pages 339-340 of the paper book). He relies on the judgement of the High Court in Jagdish Sikri Vs. UOI (SLR 1970 page 571). Shri

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Arif, learned counsel has also submitted that even in 1992 when the applicant claims that he was fit to join duty, he had not made any representation to the Government which shows that he has failed to discharge his duties as a Govt. servant. Learned counsel has also submitted that the relief prayed for by the applicant in para 8(w) is that the order of termination, if any, should be quashed, which shows that he was aware even at the time when he had filed the Original Application in 1992 that the order of dismissal had already been passed against him in 1986. Since the medical leave w.e.f. 9.2.1982 to 30.6.84 had only been regularised ~~upto~~ ¹² upto that date, he cannot agitate the matter at this belated stage. The respondents have therefore, submitted that although the applicant had absented himself from duty w.e.f. 9.12.82, and his leave was regularised upto 30.6.84, in the facts of the case, he cannot be given any of the reliefs as the application is totally misconceived and belated.

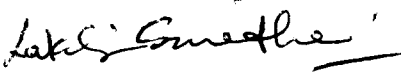
5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties. From the materials on record, it is clear that the applicant was very much aware that disciplinary proceedings have been initiated against him under Rule 14 of the CCS(CCA) Rules in 1985. It is also evident from the Original Application filed by the applicant in 1992 that he was aware that an order of punishment which he refers to as "order of termination" has been passed against him. From the materials on record, we have no doubt at all about the service of the dismissal order dated 25.7.86 on the applicant and that he was fully aware that he was no longer in service from that date. No application for condonation

--of delay has been filed along with this original application which has been filed in 1992, in which he has submitted that the order of termination, if any, should be quashed. Although the applicant was granted leave upto 30.6.84, he had not joined his duties thereafter and we find no sufficient reasons why he could not join his duties till the order of dismissal was passed. Now after 6 years of the punishment order he has filed this O.A. raising stale claims which are untenable and baseless.

6 For the reasons given above, we find that this application is hopelessly barred by limitation. Even at the time when the Original Application was amended, in 1995 the applicant has not sought any specific direction to quash the dismissal order passed in 1986. We also find no merit in this O.A. and the same is accordingly dismissed. No order as to costs.


(Shri R.K. Ahooja)

Member(A)


(Smt. Lakshmi Swaminathan)

Member(J)