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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 788/1993
M.A. 1062/93

New Delhi, dated the 9th December, 1994

CORAM

Hon'ble Shri N.V. Krishnan, Vice Chairman(A)

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

Shri Jagdish Prasad,
r/o Village Ghari Hariya
P.O. Bisawar, District Mathura-UP

... Applicant

(By advocate Shri J.P.Verghese)

Versus

1. Delhi Administration, through its
Chief Secretary, Rajpur Road,
New Delhi-6

2. Commissioner of Police, Police Headquarters,
I.P. Estate, New Delhi.

... Respondents

(By Advocate Shri O.N.Trisal)

ORDER(ORAL)

(Hon'ble Shri N.V. Krishnan, Vice Chairman (A))

The applicant who was a constable in the
Delhi Police is aggrieved by the impugned order
dated 21.4.1988 (Ann.A.1) by which his services were
terminated under Rule 5 of the CCS(Temps.services)
Rules, 1965. This OA has been filed by the applicant
on 18-3-1993 alongwith MA-1062/93 for condonation of
delay. Respondents have filed their reply to MA

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opposing the prayer of the applicant for condonation of delay. Applicant has filed rejoinder as well as written submission containing the legal basis for condoning the delay.

2. We have heard the parties, on the MA for condonation of delay by the learned counsel for the applicant.

3. It is stated that the applicant had made a representation on 11.5.1988 followed by a reminder on

7-11-1988. No reply was received from the

respondents. Hence the OA. had to be filed. This is not a justifiable ground to condone delay.

If no reply is received to a representation within six months the OA should have been filed within one year from the expiry of such six months.

Further, repeated representations do not extend the period of limitation.

v - to explain the delay in filing the OA -

4. It is next stated/that the earliest case in

regard to this issue - OA 2113/89 Vinod Kumar v. UOI

was allowed in April, 1991. The S.L.P. filed by Govt. was

dismissed on 5-2-1992. Thereafter, the Tribunal disposed of a number of such cases. But the applicant came to know of these facts only in Feb., 1993. Hence the delay.

5. One could have appreciated these arguments if they came from a person whose claim/based on the only consideration that the Tribunal has given relief to others, similarly circumstances. In that case alone, a plea of belated knowledge of the judgments could be made. Here the facts are different. The applicant was aggrieved and he made a representation in May, 1988 followed by another in Nov. 1988. Therefore, in his case the cause of action had arisen- as seen from his own conduct- ^{long} ~~may~~ before the judgments.

6. Another ground taken is that similar persons whose services were terminated in 1988 had filed their applications in this Tribunal and they have been allowed. In the written argument, learned counsel has referred to these judgements. Copies have also been filed. The first judgment, delivered on 26-4-1991 is in OA No.2113/88. The service of the applicant therein was terminated by the order dated 19.4.1988. Obviously there was no delay. OAs 220/1988 and 496/1989 were disposed of together. The services of the applicants in both cases were terminated ^{also} on 19-4-1988. These are/cases where the aggrieved persons

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appreciated this Tribunal well within time.

7. In the written arguments it is stated that there

are ~~the~~ other persons whose services were terminated in

1988 but who filed OAs in 1991, 1992 and yet got relief. The

following judgments/orders have been cited :-

S.No.	OA	Name of parties	Decided on
1.	1187/92 (P.B)	Rajinder Kumar & others. Delhi Administration and others.	24.12.1992
2.	2828/91 (P.B)	Naresh Kumar & Anr. v.s Delhi Admn.& Ors.	12.5.1993
3.	1221/91 (P.B)	Narender Kumar v.s. Delhi Admn.& Anr.	31.5.1993

It is also stated that in OA 894/92 and batch of 4 other

cases where M.P. for condonation of delay had been filed,

The OAs have been admitted after hearing the parties and the
final hearing is yet to take place.

8. We have considered this plea. In the three cases
already decided it appears that the question of limitation
was neither raised nor considered. In OA 894/92 and batch
of cases this question was raised. The proceedings dated
23.4.1993 filed with the written arguments do not disclose
how this issue was dealt with by the Bench. There is not
even an order that the delay is ~~considered~~ as prayed in the
MPs. That order cannot be of any avail in the present case.

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81.

9. Reference has been made to the judgment of the supreme court in Collector, Land Acquisition v. Katiji (1987) 2 SCC 107. We have considered the issue in the light of this judgment above, also. As stated, the applicant gave up his efforts after he filed in Nov., 1988, the last of his two representations. It cannot be contended that the cause of action arose after the judgment was delivered in Vined Kumar's case (supra). It has been held by the Supreme Court in Bhup Singh vs. UOI (JT 1992 (3) SCC 322) that the judgment in other cases do not give rise to a cause of action. The cause of action has to be reckoned from the date when it arose i.e. 21.4.1988 when the impugned Ann.1 order was passed. Besides, we notice that in later judgments, the Supreme Court has rejected cases when the bar of limitation had operated (see S.S. Rathore v. State of M.P.) AIR 1990SC 10 and State of Punjab vs. Gurudev Singh (1991) 4 SCC 1)

10. In the written argument reliance has been placed on certain observations of this Tribunal in the case of Dharampal v. UOI and others 1988(6) ATC. It is contended that on the ratio of these observations, the respondents should have sue met & given this applicant the same relief which others have been given on the basis of directions of this Tribunal.

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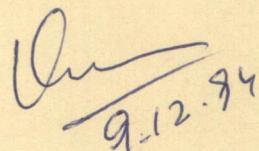
11. We are unable to see how a parallel can be drawn between these two cases. In Dharampal's case the police officials had acted jointly, while in service and the Home Minister had given an assurance in Parliament. The misconduct of the applicant -viz- alleged resort to deceitful means to secure employment- is entirely personal to him. The mere fact that ^U these were other similar cases does not help him unless he too ^{takes} action like the others.

12. We are, therefore, of the view that the delay in filing this OA has not been satisfactorily explained. Therefore, MA for condonation of delay is dismissed. Consequently, the OA is dismissed as barred by limitation.

Lakshmi Swaminathan

(Lakshmi Swaminathan)

Member (J)


9.12.94

(N.V. Krishnan)

Vice Chairman (A)