

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No.1223 of 2004

Allahabad this the 25th day of October, 2004

Hon'ble Mr. A.K. Bhatnagar, Member (J)
Hon'ble Mr. S.C. Chauhan, Member (A)

Brij Bihari Tiwari, aged about 45 years, S/o Sri Jagdish Tiwari, Branch Post Office Chandpur, District Ballia, Posted as EDBA Chandpur(Sahatwar), District Ballia.

Applicant

By Advocate Shri V.N. Tripathi

Versus

1. Union of India through Secretary, Ministry of Communication, South Block, New Delhi-the Chief Post Master General (Daak Vibhag) U.P. Parimandal, Lucknow.
2. The Post Master General Gorakhpur Region, Gorakhpur.
3. The Superintendent of Post Offices, Ballia.
4. Up Mandaliya Nirikshak Daakghar Purvi Up-Mandal, Ballia.

Respondents

By Advocate Shri Saumitra Singh

O R D E R (oral)

By Hon'ble Mr.A.K. Bhatnagar, Member(J)

By this O.A. applicant has prayed for direction to opposite party no.3 to decide the appeal filed by the applicant against the order dated 31.12.1993 passed by respondent no.4 or set aside the order dated 31.12.1993 passed by respondent no.4 with full backwages with a further prayer for re-instatating the applicant on his post during the pendency of his appeal before opposite party no.3.

2. The brief facts giving rise to this O.A., as

per the applicant, and that he was appointed as per
per the applicant are that he was appointed as E.D.D.A.
Chandpur (Sahatwar), District Ballia. It is stated
that due to some political rivalry some one made
complaint against the applicant in December, 1991
and without affording any opportunity to the applicant
to defend himself, respondent no.4 dismissed the applicant
from service vide order dated 31.12.1993(annexure-1).
The applicant thereafter preferred an appeal before
the Superintendent of Post Offices, Ballia-respondent
no.3 on 07.02.1994(annexure-2), which is as per the
applicant is still lying undecided. Hence, he filed
this O.A.

3. The grievance of applicant is that against
the impugned order of dismissal from service the applicant
has filed appeal before respondent no.3 but upto now, no
decision has yet been taken by the respondents.

4. We have heard the learned counsel for the
parties and perused the record.

5. Admittedly, service of the applicant was
dismissed by order dated 31.12.1993, against which he
filed appeal on 07.02.1994(annexure-2). Since then
applicant-- is cotinuously sending representation after
representations to the respondents. The last reminder
shown to have been filed on 24.08.1996(annexure-4), while
this O.A. has been filed on 30.09.2004. In fact as per
the applicant he has filed appeal on 07.02.1994 and if
the respondents have not decided the same within a period
of 6 months, he should have filed the O.A. It is also not
clear whether the appeal or representation of the applicant
so filed by him, time to time, are infact pending before

the department or not. He has nowhere shown the mode of sending the appeal or representation to the department. The applicant was through out sleeping over his rights since 31.12.1993 when the order of dismissing him from service was passed or at the most from the date of filing of so called appeal dated 07.02.1994. We are also aware that cause of action shall be taken to arise on the date of the order of the higher authority disposing of the appeal or representation. Where no such order is made within six months after making such appeal or representation, cause of action would arise from the date of expiry of six months. Repeated unsuccessful representations not provide by law, do not enlarge the period of limitation. We are also fully aware with the fact that representations and memorial to the President etc. do not extend the limitation, as held by the Apex Court in the case of S.S. Rathore Vs. State of M.P. A.I.R. 1990 S.C. page 10.

6. Even if the date of appeal of the applicant is taken to be true as 07.02.1994, then the O.A. should have been filed by the applicant by August, 1994 while this O.A. has been filed on 30.09.1994 after a lapse of more than 10 years, which is certainly grossly time barred. Moreover, no delay condonation application has been filed by the applicant alongwith this O.A. The Hon'ble Supreme Court in the case of Udham Singh Kamal Vs. R.C. Sharma A.I.S.L.J. 2000(2) 89 has clearly held that Central Administrative Tribunal cannot entertain an application which is barred by limitation. Limitation bar cannot be waived unless it has been applied for.

7. After careful consideration of the submissions made by counsel for the parties and in the light of case

:: 4 ::

law cited above, we are of the view that O.A. is grossly time barred and is liable to be dismissed at the initial stage itself. The O.A. is accordingly dismissed as grossly time barred at the admission stage itself. No order as to costs.

S. Shank
Member (A)

J.W.
Member (J)

/M.M./