

Through Video Conferencing**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR****Original Application No.200/398/2021**

Jabalpur, this Friday, the 02nd day of July, 2021

**HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER**

Alok Kumar Jain [Posted as Supervisor (SBCO)], S/o Shri Gulab Chand Jain, aged about 50 years, R/o – H. No.08, Jain Nagar, Gufa Mandir, Lalghati, Bhopal 462030 (M.P.)
-Applicant

(By Advocate – Shri Deepak Panjwani)

V e r s u s

1. Union of India through its Secretary, Ministry of Communications & IT, Department of Posts, Postal Accounts Wing, Dak Bhavan, New Delhi – 110001.
2. The Secretary, Ministry of Communication, Department of Telecommunication, Sanchar Bhavan, 20 Ashoka Road, New Delhi 110001.
3. Deputy Director General (PAF), O/o DG (Posts), Dak Bhavan, Postal Accounts Wing, New Delhi 110001.
4. General Manager (Finance), Account (Postal) Dak Bhavan, Fourth Floor, Hoshangabad Road, Bhopal (M.P.) 462027.
5. Manager, Postal Store DEPO (PSD) Arera Hills, Bhopal 462011 (M.P.)

-Respondents

(By Advocate – Shri Surendra Pratap Singh)

O R D E R

By Ramesh Singh Thakur, JM.

Heard.

2. The applicant has filed this Original Application and prayed for the following relief:

“8.1 Declare the final list prepared for the Limited Departmental Competitive Examination (LDCE) for promotion to the cadre of Postal Service Group ‘B’ 2018-19 for the post of Accounts Officers and Assistant Accounts Officer as null and void on account of administrative errors by the respondents in the process of conducting the said examination.

8.2 Declare the eligibility criteria mentioned in point 2(i), (ii) and (iii) of Column 11 of Schedule to “Indian Posts and Telecom Communications Accounts and Finance Service Group- ‘B’ (Account Officer and Assistant Account Officer) Recruitment Rules, 2018” to be ultra virus the Constitution of India.

8.3 Direct the respondents to prepare the final select list of the candidates for the Limited Departmental Competitive Examination (LDCE) for promotion to the cadre of Postal Service Group ‘B’ 2018-19 for the post of Accounts Officers and Assistant Accounts Officer on the basis of year wise eligibility against year wise vacancies in terms of law laid down in 2007 (9) SCC 743 (Vijay Singh Charak Vs Union of India).

8.3 Direct the respondents to decide the representation of the applicant with speaking order within specified time frame.

8.4 Any other order/orders which the Hon’ble Court may deem fit and proper in the interest of justice may kindly be issued.”

2.1 From the pleadings, the case of the applicant is that he was appointed on 08.04.1991. The Government of India, Ministry of Communications, Department of Posts published the Recruitment Rules 2018 of Indian P&T Accounts and Finance Service (Group ‘B’) of Accounts Officers and Assistant Accounts Officers in the Gazette notification on 02.04.2018 (Annexure A-1). Subsequently, a notification for conducting Limited Departmental Competitive Examination



was issued on 19.04.2018 (Annexure A-3) for recruitment to AAO cadre of Group B officers for the year 2018-19, examination of which was conducted on 05.07.2018. The result of the aforesaid examination was declared on 01.10.2018 (Annexure A-11). The applicant made a representation to the respondents on 13.11.2018 (Annexure A-13) pointing out the irregularities in the examination process and declaring the examination as illegal. The applicant submits that he has not received any response from the respondents on his representation.

3. We have heard the learned counsel for the parties.

4. The applicant is challenging the selection process held in the year 2018, whereas the instant Original Application has been filed in 2021. Section 21 of the Administrative Tribunals Act, 1985 (for short ‘the Act’) deals with limitation for filing the Original Application before this Tribunal, which reads as under:-

“21. Limitation.- (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years



immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

5. Perusal of the aforesaid section makes it clear that under the Act, the limitation has been prescribed as one year from the date of cause of action for filing an Original Application before this Tribunal. The said period can be extended by another six months from the date of filing of appeal if the same is not decided. The Act further provides that if the application is not filed within time as stipulated in Section 21 of the Act, then the applicant has to move a miscellaneous application seeking condonation of delay by explaining the delay in not filing the Original Application within the limitation.

6. It would be relevant to refer to the judgment of Hon'ble Supreme Court in the case of **Union of India vs M.K. Sarkar**, 2010 (2) SCC 58, wherein it has



been held that limitation has to be counted from the date of original cause of action and stale matters should not be entertained. The Hon'ble Supreme Court has further held as under:-

“9. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. Moreover, a court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court/Tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or Tribunal deciding to direct 'consideration' without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect.”

7. In the instant case, the cause of action arose in favour of the applicant in the year 2018, whereas the instant Original Application has been filed on 24.06.2021, i.e. after a lapse of more than 03 years. Neither any reason for approaching this Tribunal belatedly has been mentioned nor any application seeking condonation of delay is filed by the applicant. Moreover, the recruitment in question has already taken place way back in the year 2018 and those successful have already joined. Merely by making a representation with reference



to the stale issue will not extend the period of limitation as held by the Hon'ble Apex Court in the case of **M.K. Sarkar** (Supra).

8. Accordingly, the Original Application is dismissed *in limine* as barred by limitation. No costs.



(**Naini Jayaseelan**)
Administrative Member

am/-

(**Ramesh Singh Thakur**)
Judicial Member