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Central Administrative Tribunal
Allahabad.

Registration O.A.No.973 of 1987

Surendra Singh ... Applicant

Union of India and others Vs. Respondents.

Hon.Ajay Johri,AM
Hon.G.S.Sharma,JM

(By Hon.G.S.Sharma,JM)

The applicant of this case under Section 19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act XIII of 1985) is a retired employee of Parachute Regiment Training Centre, Agra having retired voluntarily on 3.7.1984. Initially, he was appointed as Civil School Master on 6.11.1963 in U.D.C.grade at Gwalior. On declaring surplus, his employment ceased w.e.f. 1.11.1966. He was however, reappointed as Storeman in L.D.C. grade in C.I.L. Bangalore from 6.11.1966 and later on was transferred to A.D.R & E.E.,Agra Cantt. It is alleged that on 4.10.1982, the applicant was superseded as one J.P.Agarwal, who is stated to be junior to the applicant, was promoted to the post of Store Superintendent. Ignoring his supersession, the applicant claimed wages of Store Superintendent from 10.9.82 to 1.6.1983 amounting to Rs.200 and certain other reliefs in the Central Government Labour Court New Delhi in 1983. His claim for arrears from 10.9.1982 to 1.6.1983 was not found fit for adjudication before the Labour Court vide orders passed by the Presiding Officer on 28.4.1987. The applicant thereafter moved an application under Section 2-A of the Industrial Disputes Act before the Assistant Labour Commissioner(C) Lucknow on or about 27.7.1987 (copy annexure E) for the first

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time claiming therein difference in pay from 1.11.1966 to 31.12.1969 on the ground that he should have been paid the salary of U.D.C. scale and not of the L.D.C. scale and also prayed for his promotion as Store Superintendent w.e.f. 10.9.1982. On 18.8.1987, the Assistant Labour Commissioner vide his order, copy annexure 'F', refused to proceed with the application of the applicant with the observation that the Parachute Regiment Training Centre Agra does not fall within the purview of Industrial Disputes Act and the applicant should seek his remedy through Central Administrative Tribunal, if so desired. The applicant has now filed the present application for the arrears of pay according to U.D.C. grade from 1.11.1966 to 31.12.1969 and further arrears of pay from 10.9.1982 on the ground that since that date, he is entitled to promotion as Store Superintendent.

2. The applicant has alleged in his application that it is within limitation prescribed by Section 21 of the Act XIII of 1985. He has nowhere alleged that he had sufficient cause for not moving this Tribunal earlier so as to condone the delay under Sub-Section (3) of Section 21 of the said Act. It was ~~alleged~~¹ orally submitted that having lost his claims in the Labour Courts, the applicant has approached this Tribunal and the period spent by him there is liable to be excluded from consideration. We have carefully considered this contention of the applicant but find ourselves unable to agree with it. So far as the claim for arrears of pay from 1.11.1966 to 31.12.1969 is concerned, the cause of action to the applicant arose on 1.12.1966 when he was paid his salary in the grade of LDC. He did not raise this issue before any Court or authority till he moved the Assistant Labour Commissioner (C) Lucknow in July 1987. His claim had already become time barred when the Act XIII of 1985 came into force

and in our opinion, the same was neither revived by his taking the delayed proceedings before the Assistant Labour Commissioner nor by any subsequent order passed in the said proceedings.

3. Regarding his second relief for arrears of pay of the grade of Store Superintendent from 10.9.1982, we are of the view that the cause of action arose to the applicant on 10.9.1982 when he was superseded and his claim even against that supersession became time barred by the time the Act XIII of 1985 came into force w.e.f. 1.11.1985. The applicant did not claim his promotion before any Court after 10.9.1982 though he was still in service upto 3.7.1984. In his claim petition before the Labour Court, he had claimed a sum of Rs.200 only on account of the difference in his pay on the ground that he was entitled to the wages of the Store Superintendent from 10.9.1982. It has been observed by the Labour Court that the claim of the applicant involved the question whether he was entitled to be promoted as Store Superintendent and he had got no existing right to get the arrears. We are therefore, of the view that the applicant did not knock the doors of the proper Court or authority nor sought the proper remedy of promotion ~~in the proper Court~~ and the time spent by him in the proceedings before the Labour Court cannot be excluded. We are further of the view that under Sub-Section (3) of Section 21 of Act XIII of 1985, we can condone the delay only in such cases which had not become already time barred on 1.11.1985 but were filed before the Tribunal after the prescribed period of one year or six months prescribed by sub-sections (1) and (2) of Section 21. As pointed out above, for both the reliefs claimed by the applicant before us, the cause of action had arisen more than 3 years before

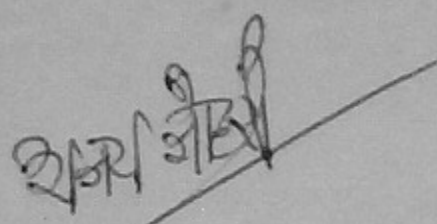
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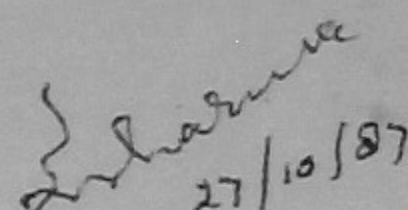
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the Act XIII of 1985 came into force and as such, his application is clearly barred by time and we are unable to condone the delay caused in his case.

4. The application is accordingly disposed of as time barred.


MEMBER (A)


27/10/87
MEMBER (J)

Dated 27th Oct. 1987
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