

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 11th day of July, 2000.

Original Application No. 1238 of 1993.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman.

Hon'ble Mr. M.P. Singh, Administrative Member.

Gauri Shankar Tewari son of Sri Shiv
Murti Tewari resident of village and
Post Basauli, District Jaunpur.

.....Applicant

C/A Ashok Kumar Dwivedi.

Versus

1. Govt. of India through Executive Engineer (Civil)
Construction Wing, All India Radio r/o Rani
Laxmi Bai Marg, Lucknow.

2. Superintending Engineer (Civil) Construction
Wing All India Radio IIIrd Floor Suchana Bhawan
Lodi Road, New Delhi.

.....respondents

C/R Sri R.C. Joshi

ORDER

By Hon'ble Mr. M.P. Singh, AM

The applicant has challenged the orders dated 13.3.89 and 12.7.93 reverting him from the post of clerk grade II to the post of Daftary and transferring him from AIR. Lucknow to AIR Bareilly.

2. The brief facts of the case are that the applicant was appointed as a peon in 1973. He was promoted as Daftary and was further promoted from the post of Daftary to clerk grade II on 5.8.80.

3. The applicant was suffering from mental pain and therefore, he requested the respondents to sanction medical leave to him. The Assistant Engineer (Civil) Construction Wing, Varanasi informed the applicant that he must send a certificate of Chief Medical Officer for grant of leave on medical ground.

4. The respondent no. 1 vide order dated 13.3.89 reverted the applicant from the post of clerk grade II to the post of Daftary and transferred him from A.I.R. Lucknow to A.I.R. Bareilly. The applicant re-covered from illness on 23.4.92 and sent an application to respondent no. 1 that he may be permitted to join his duty. The respondent no. 1 vide order dated 12.7.93 informed the applicant that he had been transferred to All India Radio Bareilly on the Post of Daftary and was directed to join his duty by 5.8.93. The applicant made representation to

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respondent no. 2 requesting them that he may be permitted to join the post of clerk grade II. This application is still pending with the respondent no. 2. Aggrieved by this the applicant has sought relief by praying that the orders dated 13.3.89 and 12.7.93 be quashed.

5. The respondents have contested the case stating that although the applicant was promoted/appointed to the post of clerk Grade II but his promotion was purely adhoc and on temporary basis. The applicant has applied for seven days casual leave with effect from 1.9.1987 to 7.9.1987 which was granted to him. But the applicant did not join his duties after expiry of the sanctioned leave and remained unauthorisedly by absent from duty. Taking into consideration his unauthorised absence from duty for a considerable period, the respondents directed the applicant to join his duties latest by 30.6.1988. Thereafter, the respondents sent another letter to the applicant to join his duties or submit the medical certificate in support of his illness. The respondents waited for a considerable period but the applicant did not either join his duties or submitted medical certificate in support of his illness and unauthorised absence. The applicant was, therefore, reverted to the post of Duftary as his promotion was purely on temporary basis. According to the respondents, the applicant was rightly reverted back to the post of Duftary, although his services were liable to be terminated for his wilful and unauthorised absence for over

four years. The applicant was again directed vide letter dated 12.7.1993 to join his post of Daftary at Bareilly which he had not obeyed and therefore, rendered himself liable to severe disciplinary action. In view of the foregoing facts the application is liable to be dismissed.

6. Heard learned counsels for rival contesting parties and perused the records.

7. The question for consideration before us is as to whether the orders passed by respondents on 13.3.89 and 12.7.93 are in accordance with the law, Rules & instructions. The respondents vide their letter dated 13.3.89 have reverted the applicant to the post of Daftary and transferred him from AIR Lucknow to AIR Bareilly. The cause of action has, therefore, accrued from the date the reversion and transfer order has been passed i.e. 13.3.89. The applicant has filed this O.A. on 18.8.93 i.e. after a period of more than four years. Hence, the O.A. is barred by limitation under section 21 of the Central Administrative Tribunal Act 1985 section 21 of the ^{Act} CAT/reads as follows:-

" 21 (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;

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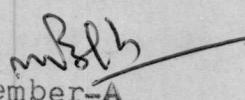
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(b) in a case where an appeal or representation such as is mentioned in clause (b) of subsection (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date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

8. It is, therefore, obvious from the provisions of section 21 of the Act that Tribunal shall not admit the application unless it is made within a period of $1\frac{1}{2}$ years from the date on which final order has been passed. Without going into other merits of the case, we find that the application is grossly barred by limitation. The application is therefore liable to be dismissed on this ground, alone.

9. In view of the aforesaid facts and circumstances of the case the O.A. is dismissed on the ground of limitation.

10. There shall be no order as to costs.


Member-A


Vice-Chairman

/n.s./