

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

Registration O.A. No. 1131 of 1994

Dr. S.S. Pandey ... .. Applicant.

Versus

Union of India  
and others ... .. Respondents.

...

Hon. Mr. S. Das Gupta, Member (A)  
Hon. Mr. T.L. Verma, Member (J)

( By Hon. Mr. S. Das Gupta, Member(A) )

This application has been filed under Sec. 19 of the Administrative Tribunals Act, 1985 praying that a direction be issued to the respondents to submit A.C.Rs. of the applicant to the Union Public Service Commission ( U.P.S.C. for short) for their assessment and as to fitness of the applicant for regularisation in terms of the decision of the Supreme Court in the case of Dr. A.K. Jain and others Vs. U.O.I. and others and in case, the applicant is found fit, the respondents be further directed to re-instate the applicant and regularise his services.

2. The applicant in this case was appointed as Assistant Medical Officer on adhoc basis in the Norther Railway, Gorakhpur by the respondent no. 3 vide order dated 15.9.1977 (Annexure- A 3). He continued his service without any break until his services were terminated vide order dated 22.1.1981 (Annexure- A 4). The applicant is claiming the benefit of the judgment of Supreme Court in W.P. (Civil)

wf.

No. 822 of 1987, Dr. A.K. Jain and others Vs. Union of India and others which was decided by the order dated 24.9.1987. A copy of the same is at Annexure- A 2.

3. In this case, it was decided by the Supreme Court that the services of all doctors either as Assistant Medical Officer or as Assistant Divisional Medical Officer on adhoc basis upto 1.10.1984 shall be regularised in consultation with the UPSC on the evaluation of their work and conduct on the basis of their confidential reports in respect of the period consequent to 1.10.1982.

4. We have heard Sri M.A. Siddiqui, learned counsel for the applicant <sup>at</sup> admission stage and carefully went <sup>through</sup> to the pleadings of the application.

5. We notice that the decision of the Supreme Court on which the applicant is relying was ~~based~~ <sup>made</sup> on 24.9.1987 ~~whether~~ <sup>while</sup> this application has been filed only on 25.7.1994. The application, therefore, clearly appeared to be time barred as the applicant has not sought the relief of the Supreme Court's judgment within a period of limitation. On this point, the learned counsel for the applicant cited in his favour the decisions of the case;

(a) Inder Pal Yadav and others Vs. Union of India and others, 1985 SCC(L&S), 526.

24.

- (b) S.S. Rathore Vs. State of Madhya Pradesh, 1989(5) SLR, 779.
- (c) R.D. Gupta Vs. Union of India, and another. (1992)20 ATC(FB), 703.
- (d) Union of India and others Vs. Dr. Gyan Prakash Singh, (1994)26 ATC, 940.
- (e) Dr. Gopalji Vs. Union of India and others, decided by this Bench of the CAT in O.A. No. 456 of 1989 by its judgment dated 3.10.1991. A copy of which is at Annexure-A 5 to this application.

6. We have gone through the cases cited by the learned counsel for the applicant. In Inder Pal Yadav's case, the controversy was regarding the termination of the services of ~~one~~ Casual Workers employed <sup>in</sup> Railway Projects. The Supreme Court considered <sup>in</sup> a scheme formulated by the Railway Administration for regularisation of the services of the applicants as Casual Labourers and approved the same with certain modifications. This case, in no way, <sup>came to</sup> ~~gave~~ the assistance to the applicant on the point of limitation.

7. The next case considered was that of S.S. Rathore's case. In this case, the question of limitation was considered and the principle laid down by the Supreme Court was that a cause of action would be taken to arise not from the original adverse order but on the date when the order of the higher authority, where statutory

wlf.

remedy or appeal or representation is provided, <sup>is passed</sup>  
It was also held that if no statutory remedy  
of appeal or representation is provided, then  
this principle is not applicable. Moreover,  
repeated unsuccessful representations not provided  
by law, are not governed by this principle. This  
case also is clearly of no assistance to the  
applicant's case since he claims to have ~~been~~<sup>h</sup>  
made repeated unsuccessful representations and  
~~these~~ cannot be considered for purpose of limitation.

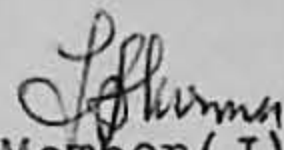
8. In the case of R.D. Gupta, the controversy  
raised was with regard to certain infirmities in  
the disciplinary proceedings. This case did not  
consider the question of limitation, at all.


9. In the case of Dr. Gyan Prakash Singh, the  
question before the Supreme Court was whether  
the decision in ~~Dr.~~ A.K. Jain's case would  
be applicable to those who were appointed on  
1.10.1994 and the decision of the Supreme Court  
was in the negative on interpretation of the  
Phrase ~~"upto October, 1994"~~ <sup>"upto 1.10.1984"</sup>

10. Lastly, in the case of Dr. Gopalji, the  
question which came up for consideration related  
to assessment of ACRs by U.P.S.C. for regularisation  
of applicant's services. The question of limitation,  
did not arise at all.

W.P.

11. It will, therefore, be clear that <sup>in</sup> none of the cases cited by the learned counsel for the applicant, there is ~~not~~ any rule in favour of the applicant that his application is not barred by limitation. In view of the fact that the Supreme Court's judgment was dated 24.9.1987 whereas the present application has been filed only on 25.7.1994 which is after <sup>a</sup> gap of nearly 5 years for which no satisfactory explanation has been given, we are constrained to dismiss the application on the ground of limitation at the admission stage itself.

  
Member (J)

  
Member (A)

Dated: 09.8.1994

( n.u. )