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(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 25th day of July, 2012.

HON'BLE MR. B.V. RAO, MEMBER -J

HON'BLE MS. JAYATI CHANDRA, MEMBER -A

ORIGINAL APPLICATION NO.575 OF 2008

Prakash Chand Jain S/o Late Ram Chand Jain, aged about 73 years, R/o 89, Vinay Nagar, Shahganj, Bodla Road, Agra 282010.

.....Applicant

VER S U S

1. Union of India through G.M. N.C. Railway, Allahabad.
2. D.R.M (P) N.C. Railway, Jhansi.
3. Divisional Finance Manager, N.C. Railway, Jhansi.
4. R.C. Malik, Ex. Dy. S.S. Gwalior through DRM (P) N.C. Railway, Jhansi.

.....Respondents

Advocate for the applicant: Shri B.L. Kulendra

Advocate for the Respondents : Shri Saumitra Singh

ORDER

By HON'BLE MS. JAYATI CHANDRA, MEMBER -A

The applicant has sought to quash impugned order dated 14.5.2007 by which the applicant's prayer for refixing pay w.e.f. 31.07.1992 has been turned down. He has further prayed for refixing of his pay in accordance with Railway Board's letter dated 8.9.1980.

2. Very briefly, the applicant joined service on 18.8.1955 and retired on 31.7.1992. The applicant has averred that his pay as

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fixed in 1980 was not in accordance with Railway Board's letter No.E(P&A)II-80/FE-4/2 dated 8.9.1980. The pay fixation of his junior R.C. Malik was done correctly. This has had consequential effects right up to his pension amount. The applicant gave various representations to the respondents but with no positive outcome. He finally moved the Pension Adalat on 25.4.2007. A final reply was received by the impugned order turning down his claim.

3. The applicant has also given a Delay Condonation Application. His contention is that he gave several applications to the Respondents and met in person while in service and after retirement for the last 17 years. The delay in filing the O.A before the Tribunal is not on account of any inaction of his, but due to the inaction of the respondents.

4. The respondents have raised the preliminary objection on the ground of delay. They have also averred that the pay fixation has been correctly done in 08.09.1980, but the prayer for re-fixation was only raised only after his retirement on 31.7.1992. The cause of action arose either in 1980 or in 1992. In any case both are highly time barred.

5. The primary issue here is the question of maintainability under section 21 of the Central Administrative Tribunal Act, 1985. Section 21 of 1985 Act reads as under: -

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

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(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.

6. Section 21 of the Administrative Tribunal Act 1985 came up for consideration before the Hon'ble Apex Court in following cases:-

- (i) **S.S. Rathore v. State of M.P. reported in 1990 SCC (L&S) 50**
- (ii) **Administrator of Union Territory of Daman and Diu and others Vs. R.D.**

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Valand – 1995 Supp(4) Supreme Court Cases 593

(iii) **Union of India & Ors. v. M.K. Sarkar reported in (2010)2 Supreme Court Cases 59**

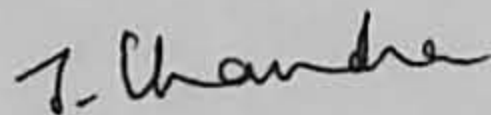
(iv) **Union of India & Ors. v. A. Durairaj reported in JT 2011 (3) SC 254**

7. Recently in the case of **Administrator of Union Territory of Daman and Diu and others Vs. R.D. Valand**

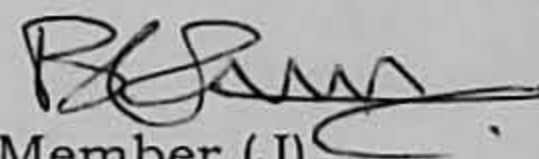
(supra) wherein it was held as under:-

“The Tribunal was not justified in entertaining the stale claim of the respondent. He was promoted to the post of Junior Engineer in the year 1979 with effect from 28.9.1972. A cause of action, if any, had arisen to him at that time. He slept over the matter till 1985 when he made representation to the Administration. The said representation was rejected on 8.10.1986. Thereafter for four years the respondent did not approach any court and finally he filed the present application before the Tribunal in March 1990. In the facts and circumstances of the present case, the Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way”.

8. Since there is no cogent reason in the application for Condonation of Delay, therefore, we find no reason to entertain the O.A. at this belated stage and unsettled those things which have already been settled. Therefore, the O.A. is dismissed on the ground of delay. No costs.



Member (A)



Member (J)

Manish/-