

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 185 of 1987 ~~198X~~
~~XXXXXX~~

DATE OF DECISION 16/04/1987

Shri Ramjibhai K.Gori Petitioner

Mayank Vora Advocate for the Petitioner(s)

Versus

District Telephones Manager & Ors. Respondent

B. R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. Mukherji : Administrative Member

The Hon'ble Mr. P. M. Joshi : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

J U D G M E N T

11

OA/185/87

16-4-1987

Per : Hon'ble Mr. S.P. Mukherji : Member Administrative.

The petitioner who was serving as peon-cum sweeper in the office of the Divisional Engineer (Phones) at Rajkot has moved this application under section 19 of the Administrative Tribunals Acts, 1985 praying that he should be reinstated and regularised in service with all consequential benefits. The brief facts of the case are that he was appointed in December, 1972. He submitted his resignation on 14-10-1976 when, according to him, his mother was seriously ill but he applied for withdrawal of the same on 6-8-77. His request was rejected on 18-8-77. On 1-10-86 he sent a legal notice and filed this application before the Tribunal in April, 1987.

We have heard the arguments of the learned counsel of the applicant and gone through the documents carefully. The learned counsel for the applicant conceded ^{that} no specific application for withdrawal of resignation had been filed and that after getting the order of rejection dated 18-8-77 at Annexure 'A' to the petition, no representation was submitted by him or no court has been moved by him till April, 1987 when this Tribunal was approached. He, however, argued that the applicant's representation dated 6-8-77 (Annexure 'B') could be taken as an application for withdrawal of his resignation and since no order accepting his resignation had been issued by the respondent the applicant presumed that his resignation has not yet been accepted and, therefore, there is no delay on his part. We are not able to accept this argument. A bare perusal of the representation dated 6-8-77 indicates that it is not an application for withdrawal of resignation but an application for being reinstated in spite of the resignation. Even if we accept the applicant's plea that the representation was for withdrawal of his resignation, the rejection of the representation at Annexure 'A' can well be taken

9

to mean
as the applicant's resignation having been already accepted and
therefore its withdrawal was rejected. The applicant should have
moved a court of law against this rejection but he elected to
keep ^{quiet} ~~quite~~ for more than nine years before moving the Tribunal.
He did not even represent to the department in a formal manner.
If the impugned order is taken to be at Annexure 'A' dated 18/8/77,
the application is hopelessly time barred under Section 21 of the
Administrative Tribunals Act, as the impugned order had been
passed more than ^{eight} ~~seven~~ years before the Tribunal was constituted
and the present application was filed much beyond six months
after the constitution of ^{the} Tribunal on 1-11-1985. As regards
condonation of delay the Supreme Court in P.S.Sadasivaswamy V/s.
State of Tamil Nadu, AIR 1974 SC 2271 has observed that delayed
and stale cases should not be entertained even if there have been
number of representations. In this case the matter is not only
stale but had been buried deep without any representation from
the applicant. Accordingly we see no merit in reviving this dead
case and reject the application summarily under section 19(3) of
the Administrative Tribunals Act, 1985.


(P M JOSHI)
JUDICIAL MEMBER


(S P MUKHERJI)
ADMINISTRATIVE MEMBER.