

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /252

1988

~~P.A. No.~~

DATE OF DECISION 2-8-1988

SHRI D.H. NIRMAL

Petitioner

SHRI Y.H. VYAS

Advocate for the Petitioner(s)

Versus

DY.DIRECTOR, SUBSIDIARY
INTELLIGENCE BUREAU (HOME)

Respondent

SHRI J.D.AJMERIA

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI

: VICE CHAIRMAN

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*

(W)

Shri D.H.Nirmal
Security Assistant
Rajkot.

.. Applicant

Versus

Deputy Director,
Subsidiary Intelligence
Bureau, Ahmedabad.

.. Respondent

ORAL ORDER

Date: 2.8.1988

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

The petitioner Shri D.H.Nirmal, who was serving as a Security Assistant in the office of the Deputy Central Intelligence Officer, Rajkot has challenged the validity of the office order No.A-159/75 dated 4.9.1975 by filing an application under Section 19 of the Administrative Tribunals Act, 1985 on 6.4.1988. The impugned order reads as under:-

In pursuance of the proviso to sub-rule(1) of rule 5 of the Central ²¹⁸¹Service (Temporary Service) Rules, 1965, I hereby terminate forthwith the service of Shri D.H.Nirmal, a sum equivalent to the amount of pay and allowance for a period of one month (in lieu of the period of notice) calculated at the same rate on which he was drawing them immediately, before the date on which this order is served on or, as the case may be, tendered to him.

Ahmedabad
Date: Sept., 4, 1975

Sd/
(M.H. Singh)
Deputy Director

No.6/Est.(Ahd)/72(25)/2087
Subsidiary Intelligence
Bureau, Ahmedabad-380004.

Date:5/9/1975

Copy to:

1. A.D.(E), IB, New Delhi
2. Shri D.H.Nirmal, Security Assistant, Rajkot (Through DCIO, Rajkot)
3. DCIO, Rajkot with Duty List papers
4. Accounts Branch for drawing one month's notice pay.
5. Office Order Book."

Sd/-
For Deputy Director

2. The petitioner claims the relief in para 2 of the petition that he should be treated in service from

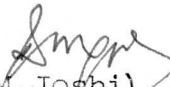
8.9.1975 i.e. the date on which an illegal termination order was served upon him and he may be allowed to perform the duties and be continued in service.

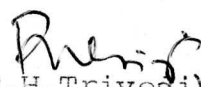
3. Mr.J.D.Ajmera, learned counsel for the Respondents, has opposed the application on the ground that the order of termination passed under Rule-5 of the Central Civil Service (Temporary Service) Rules, 1965 was passed on 4.9.1975 and the petitioner has preferred to challenge the same in the year 1988 i.e. nearly after 13 years and the application is therefore clearly barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. Mr.Y.H.Vyas, the learned counsel for the petitioner has strenuously urged that the petitioner had continuously made representations to the authorities in the year 1976, 1977 and 1984 and the respondents have preferred to reply only in the year 1988. Reference is made ^{in this regard to} ~~according to~~ the reply ^{is at} Annexure 'D' dated 17.3.1988.

3. In view of the materials placed on the record, it is difficult to find that he had made any representations in the year 1975, 76 or 77. Annexure 'D' shows that he had made representations only in the year 1987. Even the petitioner's action in making representations to the authorities would not keep the cause alive. Even the reply at Annexure 'D' relied upon does give any fresh cause of action to the present petitioner. The petitioner was entitled to claim redress against the order of termination in the year 1975, when it was served upon him. Having regard to the fact that the application is filed in the year 1988, the application is clearly barred by limitation and the Tribunal has no jurisdiction to entertain the same, as the cause has accrued three years preceding to the establishment

of the Tribunal. (See Dr. (Smt.) Kshama Kapur v. Union of India 1988 (1) (CAT) 549) Learned counsel for the petitioner has relied on the case reported in AIR 1987 SC P.1353 which is not relevant for our consideration, as a distinct provision is laid down in

Section 21 of the Administrative Tribunals Act, 1985, which is a complete code. ~
The application, is, therefore, rejected.


(P.M. Joshi)
Judicial Member


(P.H. Trivedi)
Vice Chairman

a.a.bhatt