

Reversion Yes.

(5)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 83 OF 1989.
~~T.A. No.~~

DATE OF DECISION 28-10-1991.

V.B. Baria, Petitioner

Mr. P.S. Handa, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s.

Mr. P.M. Raval Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

yes
yes
No

V.B. Baria
Rakakot Chhani Village
Baroda

.. Applicant

(Advocate: Mr. P.S. Handa)

Vs.

1. Union of India
Secretary
Ministry of Telecommunication
New Delhi
2. General Manager (Telephone)
Gujarat Circle,
Ahmedabad.
3. Divisional Engineer Telephones
Pratap Road Raopura
Baroda.
4. Sub- Divisional Telegraphy's
Dabhoi.

.. Respondents

(Advocate: Mr. P.M. Raval)

J U D G M E N T

O.A. No. 83/89

Date: 28-10-1991.

Per: Hon'ble Mr. M.M. Singh : Administrative Member

Some preliminary matters in this original application filed under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter, the Act) are noticeable to us to be such as should be considered at the threshold. We therefore, consider them accordingly in this judgment.

2. The applicant was reverted to his substantive post by order dated 26.5.1984 produced at annexure A. The application to challenge the reversion is dated 3.12.1989. The application thus came to be filed after over five years and six months of the issue of the

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impugned order dated 26.5.1984 which naturally becomes the date of the arising of cause of action. It is averred in the O.A. that the applicant had, to quote from the application, "approached the ALC Ahmedabad in August 1985, ultimately ALC Ahmedabad has also advised vide letter No. ALC/ADI/45/10/29/85 dated 16th October, 1987 at Ex. A6 to approach the Central Administrative Tribunal Ahmedabad." The body of exhibit A6 reads ^{as} follows:

"You are advised to approach Central Administrative Tribunal for redressal of your grievances. The Tribunal is situated at B.D. Patel Bldg., Stadium Road, Ahmedabad.

In view of the above the file is closed by this office."

The exhibit purports to bear the signature of one R.L. Damor A.L.C. (C) Ahmedabad. It is addressed to the applicant. The exhibit does not bear the date of the applicant's complaint to the Regional Labour Commissioner (C). The applicant has above averred that he had approached the ALC Ahmedabad in August 1985. This finds support in the figure 85 at the end of the reference figuring in the ALC's letter above as the figure 85 should show the year in which the complaint of the applicant must have been received in the office of ALC. This circumstance shows that the ALC (C), after about two years of his having received the complaint of the applicant, closed it by his above reply though according to section 28 of the Act the jurisdiction, powers and authority of the Supreme Court of India and "any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force," have not been affected by the Act in any manner. It is not the contention of the ALC (C) in his reply that his office has no jurisdiction to entertain

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the grievance of the applicant according to the law and the statutory rules, namely the Industrial Disputes Act, 1947 and the Industrial Disputes (Central) Rules, 1957. Assistant Labour Commissioner (Central) is a statutory authority under the Industrial Disputes (Central) Rules, 1957, for purposes laid down in the Industrial Disputes (Central) Rules read with the Industrial Disputes Act. The pending proceedings before these Industrial Tribunals, Labour Courts or other authorities under the Industrial Disputes Act are not liable to be transferred to this Tribunal under the provisions of section 29 of the Act, the only provisions in the Act which give jurisdictions and authority to this Tribunal over matters initially not filed before this Tribunal but filed before other Courts or authorities before the Act became applicable but liable to be transferred to this Tribunal if pending decision on 1.11.1985, the date this Tribunal started exercising powers and authority under the provisions of the Act. There is no provision in the Act which gives this Tribunal jurisdiction and authority to consider a grievance raised before an authority set up under the provisions of the Industrial Disputes Act, be it before or after 1.11.1985, which grievances the authority decides to close by advising the aggrieved to approach this Tribunal. Yet that is how this Tribunal has been approached.

3. According to the applicant's averments in the application, he had filed an application in this Tribunal on 10.11.1987 to which this Tribunal gave reply produced at Ex. A7. The body of this letter dated 9.12.1988 addressed to the applicant reads as below:

"In continuation of this office letter of even No. dated 24.11.1988 regarding office objections in the application bearing Stamp No. 767/88 filed by you.

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take notice that if you do not remove the office objections within 15 days from the date of receipt of this letter, your application will be filed without registration."

It is averred in the application that the applicant had approached the office of this Tribunal on 9-12-88 and in lieu of the application under objection he is "filing fresh application for justice." The fresh application is dated 3-2-89 as above stated. Such a fresh application cannot invoke the authority and jurisdiction of this Tribunal as lies at the foundation of the fresh application the letter above of ALC(C). Besides, the fresh application will be liable to be examined in the light of the provisions of Section 21 of the Act on which law has ^{since} been laid down by a bench of seven learned judges of the Supreme Court in the case S.S.Rathore Vs. State of M.P. (JT 1989(3) SC 530) para 21 ^{of} which judgment reads as follows:

"21. It is appropriate to notice the provision regarding limitation under s.21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section(3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58."

4. We have heard the learned counsel for the applicant and perused the record. The jurisdictional hurdle has not even been visualised

in the pleadings and submissions. The letter above of the ALC(C) has been taken to suffice to give this Tribunal jurisdiction and authority ! The jurisdiction and authority of this Tribunal have to be exercised in accordance with the provisions of the Act and not in accordance with any advice a forum approached to exercise its authority under the law which created the forum may tender to the person so approaching. Even if it is presumed which is not the case herein as above stated that the applicant had two legal ways open to him, the choice of the way has to be of the applicant - and the applicant had chosen the way, namely to approach ALC(C). The Act vests no authority in the ALC(C) to advise the applicant as above stated.

5. None appeared for the respondents at the final hearing.

6. In view of the above we have to hold that this Tribunal has no jurisdiction and authority to adjudicate in the application herein. We hereby finally dispose of the application by our order accordingly but without any order as to costs.



(R.C. Bhatt)
Judicial Member



(M.M. Singh)
Administrative Member