

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

3

O.A. No. 79 of 1991.
~~XXXXXX~~

DATE OF DECISION 31.5.1991

Shri J.B. Modi Petitioner

Mr. P.H. Pathak Advocate for the Petitioner(s)

Versus

Union of India Respondent

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

CORAM :

The Hon'ble Mr. P.H. Trivedi Vice Chairman

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?

4

Shri J.B. Modi,
68-E, Jai Ambe Nagar,
Thaltej Road,
Ahmedabad-380 054.
(Advocate-Mr. P.H. Pathak)

.. Applicant

Versus

Union of India,
Through,
Chief General Manager,
Gujarat Telecom Circle,
Navrangpura,
Ahmedabad.
(Advocate-Mr. P.M. Raval)

.. Respondent

CORAM : Hon'ble Mr. P.H. Trivedi

.. Vice Chairman

Hon'ble Mr. R.C. Bhatt

.. Judicial Member

O.A. No. 79 of 1991

ORDER

Dated : 31.5.1991

Per : Hon'ble Mr. R.C. Bhatt

.. Judicial Member

Heard learned advocate Mr. P.H. Pathak for the applicant. The applicant has, in this application, under section 19 of the Administrative Tribunals Act, 1985, prayed for quashing and setting aside the order at Annexure A-2 and the decision communicated to the applicant vide letter dt. 15th September, 1989 produced at Annexure A-9 as illegal, invalid and inoperative in law and violative of Articles 14 and 16 of the Constitution of India.

2. The first hurdle in the way of the applicant is about limitation under section 21 of the Administrative Tribunals Act, 1985. It is alleged by the applicant that he retired from the service on 1st March, 1983; That till the date of retirement of the applicant, the question of fixation of the seniority by giving confirmation was under consideration

of the department and after the applicant retired, the decision was taken on 7th November, 1984 that the case of the applicant was not considered by the department and it remained untouched; That thereafter, the applicant was constrained to approach the union and the applicant also submitted the representation separately which is produced at Annexure A-8. If the applicant was aggrieved by the decision dt. 7th November, 1984, he ought to have made representation within the prescribed time but admittedly he has not made till 12th May, 1989.

3. The other hurdle in the way of the applicant is that he was represented by the union and if the union had put the case before the authority concerned, it cannot be said that ^{till} the applicant ^{knew} ~~knows~~ everything ^{which is} conveyed to him by the union he can sit tight on his right. Learned advocate for the applicant submitted that time and again, the applicant's case was represented by the union ~~but~~ ^{and} whatever decisions were taken by the authority concerned were communicated to the union, but the union was not communicating the decisions in time to the applicant, according to the applicant. Even ^{it} is assumed for the time being, that the applicant was not getting communication from the union, the question is whether his inaction or negligence in not inquiring from the union ^{to} as what happened could save the limitation and the answer would be in the negative. Annexure A-9 specifically says that the reply was given to the Circle Secretary, B.T.E.U., Class III, Ahmedabad vide office No. Se-U/Confirm/78/III dt. 12th May, 1987. Now this action was also not challenged by the applicant within time because his representation ^{was} ~~is~~ only made in 1989. It is important to note at this stage that this decision dt. 12th May, 1987 by the authority concerned was made in the meeting with the union. Under these circumstances, it ~~would~~ ^{could} hardly be said that the applicant has no


6

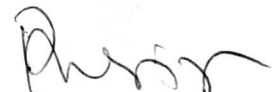
knowledge as to what was decided.

4. Lastly, learned advocate for the applicant drew our attention to the averments made by the applicant at page 3 and 4 of his application in which he has alleged that the authority which was competent to pass any order with regard to the service condition of the applicant was the Director of Telegraph, Ahmedabad ^{rebut} ~~vide~~ the Director of Telegraph, Bombay has decided the matter which was not within his jurisdiction and he had no authority in eye of law and therefore, the said decision is without authority and void ab initio. Now this decision has a reference not to the decision of 12th May, 1987 but it has reference of the decision taken as produced at Annexure A-4. Therefore, this argument also is of not availed to the applicant. ~~the~~

5. The applicant has also not mentioned in the application any ground to condone the delay, presumably because according to the applicant this application is within the prescribed period of limitation under section 21 of the Administrative Tribunals Act, 1985. However, as observed above, the application is hopelessly time barred and therefore, it cannot be admitted.

6. The result is that it is disposed of as not admitted.


(R C Bhatt)
Judicial Member


(P H Trivedi)
Vice Chairman

*Mobera