

Compulsory Retirement (Do)

9.

CAT/J/12

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

M.A. NO. 241 of 1991

O.A. No. with 1991
249 of
~~T.A. No.~~

DATE OF DECISION 30.7.1991

K.D. Gathad Petitioner

Mr. C.S. Upadhyay Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

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

CORAM :

The Hon'ble Mr. M.M. Singh .. Member (A)

The Hon'ble Mr. R.C. Bhatt .. Member (J)

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

K.D. Gathad,
Motor Driver,
O/o. Mail Motor Service,
P & T, G.P.O.,
Ahmedabad
residing at 10 Sabri Nagar
Society, Khanpur,
Ahmedabad-380 001.
(Advocate-Mr. C.S. Upadhyay)

.. Applicant

Versus

1. Union of India,
Through :
Director General of Posts,
Dak Bhavan,
New Delhi - 110 001.
2. Chief Post Master General,
Circle Office, Ashram Road,
Ahmedabad - 380 009.
3. The Manager, P.& T.,
Mail Motor Service,
G.P.O., Ahmedabad.
(Advocate-Mr. P.M. Raval)

..

.. Respondents

M.A. No. 241 of 1991

with

O.A. No. 249 of 1991

O R A L - O R D E R

Dated : 30.7.1991

Per : Hon'ble Mr. M.M. Singh .. Member (A)

The title of this M.A. does not show in which O.A. this M.A. is filed. The application is liable to be rejected on this ground alone. However, in the body of the application there is mention that the applicant had filed OA/110/89 challenging the order of dismissal dated 13.8.1986 and to review his previous order of compulsory retirement dt. 27.5.1985. It is also averred that the applicant had preferred an appeal dt. 6.9.1986 against the said order of dismissal but he did not receive disposal of the appeal before he filed OA/110/89. All along in the application reference is made to the


OA/110/89. However, the MISC. Application has been placed before us on file of OA/249/91. Looking to the body of the application, ^Malso there is no mention of OA/249/91 on which this misc. application is placed before us. We are of the view ^{herein} that this M.A. ^{deserves to M} ~~should~~ be dismissed. We hereby do so.

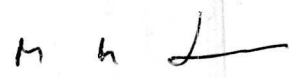
2. Coming to the OA/249/91 which is filed under section 19 of the Administrative Tribunals Act, 1985 to challenge an order dt. 8.8.1988 mentioned as served on the application on 23.2.1991, ^{it} ~~It~~ ^{is M} ~~should be~~ apparent that the application has been filed against the order dated 8.8.1988. The letter of 23.2.1991 by which the order was served on the applicant is produced at Annexure A-10. The contents of this letter addressed to the applicant by Manager (Grade A), Mail Motor Service, Ahmedabad are to the effect that the applicant was informed on 2.9.1988 by registered letter to take delivery of the punishment order dt. 8.8.1988. However, the letter remain^{ed} undelivered because the applicant made no move to take delivery of the same. It is further mentioned in ~~this~~ letter that the Chief Post Master, Ahmedabad also intimated by his letter dt. 15.10.1988 that the applicant could not be contacted despite several efforts. ^{due to} ~~due to~~ which also, the letter dt. 8.8.1988 could not be served on him. This letter proceeds further to mention that the applicant, ^{on} ~~on~~ 21.2.1989, ~~refused~~ ^{refused} to receive the letter dt. 8.8.1988 which was tried to be delivered at his home by the Inspector, Mail Motor Service, Ahmedabad ~~thereafter~~ ^{thereafter} ~~register~~ ^{on 8.3.1989.} ~~The~~ ^M registered cover received with remarks "refused by owner". This endorsement ^M in the eyes of law amount^s to receipt of the letter

(4)

by the applicant. There is ^{thru} ample material in this letter to show that the department made due efforts and ^{has} shown due diligence in service of order dated 8.8.1988 and intentionally ^{by} the applicant seems to have ^{evaded or} refused acceptance of the letter. In view of this history, we have no hesitation in taking that the order dt. 8.8.1988 was sought to be duly served on the applicant and has to be presumed to be taken as having been served on the applicant atleast on 8.3.1989 and the limitation will begin atleast from that date if not an earlier date. The application OA/249/91 has been filed on 30th April, 1991. There is ^{thru} considerable delay in filing of the application for which no reason much less any reason has been advanced. Application is therefore barred by limitation in view of the provision of section 21 of the Administrative Tribunals Act, 1985 on the subject of limitation.

3. The application is rejected as barred by limitation.


(R C Bhatt)
Member(J)


(M M Singh)
Member(A)

*Mogera

K.D. Gathad,
Motor Driver,
O/o. Mail Motor Service,
P & T, G.P.O., &
Ahmedabad
residing at 10 Sabri Nagar
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(Advocate-Mr. C.S. Upadhyay)

.. Applicant

Versus

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(Advocate-Mr. P.M. Raval)

..

.. Respondents

M.A. No. 241 of 1991

with

O.A. No. 249 of 1991

ORAL - ORDER

Dated : 30.7.1991

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by the applicant. There is ample material in this letter to show that the department made due efforts and shown due diligence in service of order dated 8.8.1988 and intentionally, the applicant seems to have refused acceptance of the letter. In view of this history, we have no hesitation in taking that the order dt. 8.8.1988 was sought to be duly served on the applicant and has to be presumed to be taken as having been served on the applicant atleast on 8.3.1989 and the limitation will begin atleast from that date if not an earlier date. The application OA/249/91 has been filed on 30th April, 1991. There is considerable delay in filing of the application for which no reason much less any reason has been advanced. Application is therefore barred by limitation in view of the provision of section 21 of the Administrative Tribunals Act, 1985 on the subject of limitation.

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(R C Bhatt)
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(M M Singh)
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