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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

M.A./112/92
in
O.A. No. 214/92
~~PAWN~~

DATE OF DECISION 25.2.19 93

Balvantrai J. Trivedi Petitioner

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

Versus

The Union of India & Ors. Respondent

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

CORAM :

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

The Hon'ble Mr. V. Radhakrishnan Member (A)

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 ?

Balvantrai J. Trivedi

• Applicant

Vs.

1. Union of India,
Through:
The General Manager,
Western Railway,
Churchgate,
Bombay.

2. Divisional Mechanical Engineer,
Western Railway,
Rajkot Division,
Kothi Compound,
Rajkot.

3. Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.

• Respondents

JUDGMENT

O.A./214/1992
with
M.A./112/1992

Date: 25.2.1993

Per: Hon'ble Mr. V. Radhakrishnan, Member (A).

1. The applicant was working as Second Fireman in the Railways and posted at Surendranagar. He was served a penalty of removal from the service on 6.2.1987. Aggrieved by this order by the A.M.C. Rajkot. The applicant made an appeal to Sr. D.M.E. Rajkot, on 4.3.1987, but it was rejected by D.M.E. Rajkot vide letter dated 7.8.1987. The applicant again filed another application dated 21.3.1988, which was also rejected by

the D.M.E. Rajkot vide his letter dated 25.6.1988. The applicant then entered into further correspondence and requested for voluntary retirement by his letter dated 28.6.1989, and again submitted another misc. petition to G.M., Western Railway on 3.7.1990.

2. It may be seen of that above, that the applicants' representations were rejected in August, 1987, in and again June, 1988, which has also been admitted in the petition. The date of petition to the Tribunal is 3.4.1992, i.e. after a lapse of more than three years and seven months from the date of rejection of applicants' representation to this appellate authority. The present misc. application is for condonation of delay filing the Original Application. The applicant has admitted delay there is about three years, while filing the present petition. In case the delay is condoned, he has said that he will not ask for the wages from the date of decision of the appeal till the filing of the present petition. He has also said that condonation of delay is a technical objection and that the applicant is not pressing for the salary for the period and that no harm or adverse effect will be caused to the respondents and therefore, the delay in filing of the application requires to be condoned. He has further said that this is a meritorious case and cannot be thrown out on the ground

of technical objection. The applicant will have to face gross in-justice and it cannot be compensated in terms of money. It is also relied upon the Judgment of the Hon'ble Supreme Court reported in 1987 SC 1352 in support of this case.

3. In this connection the Article 21 of the Administrative Tribunals Act, 1985, said that :

Limitation: (1) A Tribunal shall not admit an application:

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made within one year from the date on which such final order has been made.

(b) in case where an appeal or representation such as in mentioned in clause (b) of the sub-section (2) of Section 20 has been made and a period of six months had expired thereafter, without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1) where, -

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

The application shall be entertained by the Tribunal if it is made within the period referred to in clause (a) to in clause (a) as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified to clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

Careful reading of the above indicates that the time limit be condoned only when the applicant specifically satisfies this Tribunal that he had sufficient reasons to explain the delay in filing the petition with reference to the date in which his representations was rejected by the departmental authorities. The learned advocate for the petitioner during his arguments did not touch upon any reasons which prevented the applicant from approaching the Tribunal within the time limit. He only reiterated that no claim will be made by his client for the delayed period.

We are more concerned regarding the reasons which made him wait for a long period of more than three years. The case quoted by him, will not help him in this case. On the other hand the said Judgment 1987 S.C. 1352 emphasises that "sufficient causes" must have existed to explain the delay for consideration of any condonation of delay.

carefully
We have perused the M.A./112/92. The counsel for the respondents had emphatically pointed out absence of any sufficient cause for delay, we are also satisfied that no "sufficient causes" has been brought out in this

application for condonation of delay in filing the O.A. and the delay of three years is not satisfactorily explained. Hence, this application is bound to fail. Accordingly, we pass the following order:

4.

O R D E R

M.A./112/92 is dismissed. In view of the dismissal of M.A./112/92, the original application no. O.A./214/92 does not survive and hence, it stands dismissed. No order as to costs.

VR
(V. Radhakrishnan)
Member (A)

RCB
(R.C. Bhatt)
Member (J)

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