

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 315 OF 1992
~~Ex. No.~~

DATE OF DECISION 3-2-1994

Shri I.S. Doshi, Petitioner

Mr. M.S. Trivedi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

The Hon'ble Mr.

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 ?

Shri I.S. Doshi,
Senior Auditor,
A.G. Audit II,
Rajkot.

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Applicant.

(Advocate: Mr. M.S. Trivedi)

Versus.

1. Union of India, through,
Comptroller & Auditor
General, O/O. C A G
New Delhi.
2. The Accountant General,
O/O A.G.II, Audit,
Gujarat, Rajkot.
3. The Accountant General,
Audit, O/o. A.G.Ahmedabad
M.S. Building, Ahmedabad.

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Respondents.

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A. No. 315 OF 1992

Date: 3-2-1994.

Per: Hon'ble Mr. V. Radhakrishnan, Admn. Member.

Heard Mr. M.S. Trivedi, learned advocate for the applicant and Mr. Akil Kureshi, learned advocate for the respondents.

2. This is regarding exercise of option by the employees who were desirous of getting their pay fixed in the revised scale of pay from a date subsequent to 1.1.1973, but not later than 31.5.1984 to indicate their option in regard to their specific dates from which they wanted their pay to be fixed in the revised scale of pay as per CCS(RP) Rules, 1973. The final date of exercise of such option was extended from time to time

..... 3/-


and finally vide Ministry of Finance, Department of Expenditure U.O.Note No. 1(2) E-III/88 dated 24.10.1988 last date for option was fixed as 1st December, 1988, enclosure to Annexure A-1, page 10. The case of the applicant is that he was unaware of the order issued by the Ministry of Finance as he was a member of the Audit party and he was doing outside audit. He was not aware of the Ministry of Finance U.O.Note regarding exercising option. The applicant's grievance is that the respondents did not bring these order to his notice which the result that he could not exercise his option as required under the above order before the crucial date i.e., 1.12.1988. He came to know of the concerned U.O. Note from the agenda items to be discussed in Civil Audit and Account Association merely displayed on notice board and immediately he submitted representation dated 29.8.1991 to the respondents for extension of time for exercising option. He represented that unless he was given the extended time to give his option he would be put to financial loss. Ultimately he was informed after repeated representations that he could not allowed to exercise his option after the said date i.e., 1.12.1988.

3. The contention of the applicant is that even the order of Ministry of Finance, states that "it may now be ensured that the revised decision is brought to the notice

to all affected persons". As the respondents had not brought these orders to the notice of the applicant within that dates specified, it was not possible for him to exercise his option and hence refusal to extend the time beyond this date to unable him to exercise his option is arbitrary and unjust.


4. The respondents have filed reply. They have stated that they had given due publicity to the Ministry of Finance circular by displaying it on Notice Board and by circulating among various section situated at main office at Rajkot. They also say "efforts were made to contact the field parties and communicate to them reference involved". It is their say that because of their efforts 13 members of the field parties exercised their option in time. In a similar way the applicant could have also exercised his option in time. Hence they have pleaded that the applicant's prayer should be rejected.

5. Mr. Trivedi for the applicant stated that as the applicant was a member of the Audit party he was doing outside audit. He was not aware of the Ministry of Finance U.O.Note regarding exercising option. He could not expected to see the notice board in the Headquarter office ^{as} ~~that~~ he was not working there. No communication was addressed to him informing him of



that letter and hence being unaware of the letter he could not exercise the option. He therefore, argued that the applicant should be allowed extension of time to exercise option as otherwise he will put to financial hardship. He also mentioned the case decided in the Gujarat High Court in C.A.No. 801/88 decided on 27.1.1993 when it was held that Administrative instructions should be published in some manner to make it known for persons who are sought to be affected by it. Mode of publication may vary but reasonable publication of some sort must be there. As the instructions were not made known to the applicant in time he was not able to exercise his option, and it is only just that the request of the applicant for extension of date of exercising his option should be allowed when he applied to the authorities after he became aware of it.

6. Mr. Akil Kureshi for the respondents stated that wide publicity was given to the office staff by putting the circular on Notice Board. Due to the efforts made by the respondents to communicate the order to the outside audit parties, 13 persons had exercised the option in time. There was no reason why the applicant also should not have come to know of ~~this~~ these order. The applicant had waited for more than 2½ years to give his representation and hence he was




barred by delay and laches and he could not claim further time for exercising the option. He therefore, argued that the request of the applicant for extension of time limit should be rejected.

7. After hearing the arguments of both sides I find that the applicant was not at all alert in finding out the concerned orders in order to exercise option. He had given representation asking for extension of time to give his option only on 29.8.1991. The option was to be exercised before 1.12.1988; ^{There was} ~~so~~ more than 2½ years delay on the part of the applicant to realise his rights. There is also no explanation by the applicant as to why there had been so much inordinate delay in filing his representation. The applicant has to blame himself for the rejection of his representation by the authorities. I am in full agreement with counsel for the respondents that the application is barred by delay and laches.

Hence I pass the following order:

ORDER

Application is dismissed. No order as to costs.


(V. Radhakrishnan)
Member (A)

vtc.