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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 698 of 1994

Cuttack this the 17th day of February, 1995

Damodar Pani

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not ? NO.

N. SAHU
(N. SAHU) 17-2-95
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

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C O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

Damodar Pani
Retired Group D official

Vill: Santara

Po: Mangarajpur
Dist: Jagatsinghpur

By the Advocate: Mr. D. P. Dhalasamant

Applicant/s

Versus

1. Union of India represented through
Secretary, Department of Posts,
Government of India, New Delhi-110001
2. Chief Postmaster General
Orissa Circle,
Bhubaneswar-751001

Respondent/s

By the Advocate: Mr. Ashok Mishra,
Sr. Standing Counsel (Central)

O R D E R

MR. N. SAHU, MEMBER (ADMN): In this petition, the applicant prayed for an appointment of his son Bikram Keshari Pani on compassionate grounds under the Rehabilitation Scheme in relaxation of normal recruitment rules. The applicant worked as a Group D in Cuttack G.P.O. In the normal course he would have retired on 31.3.1993 completing 60 years. But he retired on medical grounds with effect from 21.1.1989. By the time of his retirement he completed nearly 22 years of qualifying service and had only three and half years of service left. His family consists of his wife, three major sons and one unmarried daughter. The case for applicant's

compassionate appointment was examined by the Circle Relaxation Committee in its meeting on 27.3.1991. It rejected his claim by a communication dated 2.4.1991. The applicant had filed a petition for review on 2.7.1993, but this was not disposed of on the ground that there was no need to dispose of such a petition as the Circle Relaxation Committee (CRC) had already applied its mind and rejected the claim.

2. The learned Sr. Standing Counsel Shri Ashok Mishra relied on the decision of the Supreme Court in the case of L.I.C. of India vs. Mrs. Asha Rana Ch. Ambedkar reported in Judgment Today 1994 (2) SC 183.

3. The learned counsel for the applicant explained that the small amount of pension received by the applicant is hopelessly inadequate to meet the needs of a family of four children who are unemployed. The applicant applied for a compassionate appointment on 19.1.1990 and the decision was communicated on 8.4.1991. This petition for quashing the order of rejection was dated 2.11.1994 and was filed on 29.11.1994 after a gap of three years and seven months. In my view the filing of an appeal to the C.P.M.G. on 2.7.1993 to reconsider the claim would not prolong or revive the permissible period because final decision had already been communicated by a competent body entitled and empowered to decide the case. Once the Circle Relaxation Committee had disposed of the application, any further appeal to the Chief Post Master

General is redundant. It is true that this Original Application has been admitted but this was done without considering the limitation matter. That does not ipso facto mean that the Bench had condoned the delay. In the first place the averment made in the application at page 2, para 2 is incorrect. The applicant declares therein that this application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985 which is not the case. Secondly, there is no application for condonation of delay. In view of the fact that of a wrong averment and absence of an application for condonation of delay there was no occasion for the earlier Bench to consider the limitation aspect before admitting this application. Thirdly, 19(3) of the C.A.T. Act reads as under :

"(3) On receipt of an application under sub-section(1), the Tribunal shall, if satisfied after such inquiry as it may deem necessary that the application is a fit case for adjudication or trial by it, admit such application; but where the Tribunal is not so satisfied, it may summarily reject the application after recording its reasons".

It is not necessary under 19(3) to examine the very limited aspect of limitation. If the Court feels ex facie on a consideration of facts and issues raised that the application is a fit case for adjudication, the same could be admitted. No doubt Section 21 deals with limitation. There is however no bar to deal with the question of limitation after admission. Once the petition is admitted, the other party gets a chance

to be heard. It is true if the Court comes to know at the initial stage itself about delay, it could immediately decide and pass an order in limini. But in a case like this where the Court was not aware of the delay, there is no bar to consider the question of limitation at any time after admission. I, therefore, hold that even if an application is admitted for adjudication, under 19(3) of C.A.T. Act, the question of limitation can be taken up after the respondents file the counter-affidavit and the parties argue on the reasons for delay. In this case I am not satisfied about the reasons for delay. In view of this I dismiss this application on the ground that it is hopelessly barred by limitation. There is no order on costs.

Narasimha Sahu
(N. SAHU)
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//