

3
O.A.No. 104/2000

Order dated 8.3.2000

Applicant, who is at present an officer of the I.F.S. Cadre filed this application on 18.2.2000 for refixation of the year of allotment as per Annexure-3, i.e. Govt. of India notifications dated 16.10.1987 and 10.5.1988, as 1983. The year of allotment was fixed as 1987 vide Govt. of India Order No.18014 dated 21.4.1993(Annexure-2). In otherwords the applicant is aggrieved by the notification dated 24.4.1993, fixing his year of allotment as 1987. This being the position, he should have approached this Tribunal ^{after} ~~within~~ one year of this notification under Section 21 of the Administrative Tribunals Act, 1985(in short Act) read with Section 20 of that Act. But he approached this Tribunal six years 10 months after this notification without filing any petition for condonation of delay.

Sub-section 3 of Section 21 provides ~~that~~ discretion to the Tribunal to entertain an application filed beyond the period of limitation if the applicant satisfies the Tribunal that he has sufficient cause for not making the application within the period of limitation. An applicant filing an application under Section 19 of the Act beyond the period of limitation has the scope to satisfy the Tribunal with regard to delay in filing application if he files a petition for condonation of delay supported by an affidavit as required under Rule-8(4) of the C.A.T.(Procedure) Rules, 1987. Admittedly no such application for condonation of delay has been filed.

Question then arises whether this Tribunal can admit this application keeping the point of limitation open to be adjudicated at the time of regular hearing. Section 21 of the Act in general bars admission of an application beyond the period of limitation unless the delay is condoned by the Tribunal. The Apex Court in **Ramesh Chandra Sharma vs. Udham Singh** reported in 1999(2) SC SLJ 294 held that Tribunal was not right in deciding the Original Application on merit overlooking the statutory provisions under Section 21 of the Act in a case of application in regard to time-barred application against the order of non promotion. In other words, an application which is time-barred cannot be admitted for hearing on merits unless the delay is condoned by the Tribunal.

Discretion to condone delay has to be exercised judiciously and on well-recognised principles, and it is usually through speaking order indicating the satisfaction of the Court that the delay was satisfactorily explained. (Vide 1999 AIR SCW 4413, **State of H.P. vs. Tara Dutt**). In the absence of any application for condonation of delay satisfactorily explaining the reasons for not filing the application within the period of limitation, this Tribunal has no scope to exercise its discretion judiciously to condone delay. Even the Original Application itself does not contain the reason for filing this application beyond the period of limitation, because the applicant assumed that the application was within ~~the~~ time vide Para-3 of the O.A. This assumption is not correct as per legal position discussed above. It is true

that in Para-4.13 of the application it has been mentioned that the applicant represented against this notification dated 21.4.1993 and the same has not yet been disposed of. This representation under Annexure-4 was made on 17.2.1999, i.e. several years after the expiry of the period of limitation. Such a representation, under no circumstances can save limitation. It is only a representation, if submitted within the period of limitation, then the limitation would be saved for some more time, i.e. till expiry of one year after expiry of six months from the date of filing of such representation, and in case such representation remains undisposed of as is clear from Sections 20 and 21 of the Act. In the instant case there has been no mention that any representation being submitted within the period of limitation starting from the date of notification dated 21.4.1993.

In view of our discussion above, we are of the view that this application is hopelessly time-barred and there is no scope for us to condone delay in the absence of any facts being satisfactorily explained through a petition for condonation of delay supported by an affidavit. The application being time-barred cannot be admitted.

The O.A. is, therefore, dismissed not being admitted.

Yogeshwar Singh
VICE-CHAIRMAN
8/3/2000

8/3/2000
MEMBER (JUDICIAL)

Copies of order
may be sent to
the Court in
duplicate.

Fazal
16/3/2000

SC B

16/3/2000