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CENTRAL ADMINISTRATIVE TRIBUNAL CUTTACK BENCH, CUTTACK

O.A. No.251 of 2013
Cuttack, this the 26th day of April, 2013

CORAM
HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

Sri Labanya Bhoi,
Aged about 23 years,
S/o.Late Panibudu Bhoi,
Village-Narikata,
PO.Gndapatrapali,
PS-Saintala,
Dist.Bolangir.Applicant

(By Advocate(s): M/s.Laxman Pradhan,D.P.Das)

-Versus-

Union of India represented through

1. The Secretary,
Department of Defence (Production),
Ministry of Defence,
Government of India,
South Block,
DHQ,
New Delhi-110 011.
2. Secretary,
Ordnance Factory Board,

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Section-A/1,
10-A.S.K.Bose Road,
Kolkata-700 001.

3. General Manager,
Ordnance Factory Badmal,
Dist.Bolangir-767 770.
4. Collector-Cum-District Magistrate,
Bolangir,
At-Po/Dist.Bolangir.

..... Respondents

(By Advocate: Mr. G.Singh)

O R D E R

(oral)

MR. A.K. PATNAIK, MEMBER (J):

The Applicant (Sri Labanya Bhoi), S/o.Late Panibudu Bhoi of Village Narikata, Dist. Bolangir by filing this Original Application on 10th April, 2013 has sought to direct the Respondent Nos.3 & 4 to give any suitable appointment in Ordnance Factory Badmal as in the year 1984 land belonging to his father has been acquired for establishment of ordnance factory at Saintala. In support of acquisition of land belonging to the father of the applicant the applicant has relied

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on the Displaced Card issued in the year 1997 by the Tahsildar Titilagarh placed at Annexure-A/1. It is the case of the applicant that as per the provision for such acquisition of land one member of the family whose land has been acquired for establishment of the Ordnance factory is entitled for appointment. Further case of the applicant is that till date no appointment has been provided to any of the members of the family nor the Respondents considered the representation submitted by the applicant seeking employment assistance on 26.11.2012 and 14.8.2012 at Annexure-A/5 & A/6 respectively.

2. We have heard Mr.L.Pradhan, learned Counsel for the Applicant and Mr.G.Singh, Learned Additional CGSC appearing for the Respondents and perused the records.

3. Despite objection raised by the Registry that this OA suffers from limitation no separate application has been filed seeking condonation of delay. Similarly, no scrap of paper has been filed to the satisfaction of this Tribunal that appointment will be provided to one member of the family whose land would be acquired for the establishment of the

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Ordnance Factory at Badmal. Furthermore it is seen that the land belonging to the father of the applicant was acquired for the purpose of establishment of the Ordnance Factory at Badmal in the year 1984 and the displaced card was issued in the year 1997 whereas the applicant's representations annexed to this OA are only dated 26.11.2012 and 14.8.2012 at Annexures-A/5 & A/6 respectively. In this connection it is profitable to rely on the decision of the Hon'ble Apex Court in the case of **D.C.S.Negi –Versus- Union of India & Others** (Special Leave to Appeal (Civil) No.7956/2011 (CC 3709/2011)-disposed of on 07.03.2011)

in which it has been held as under:

"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the application filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:

"21. 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

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from the date on which such final order has been made

(b) In a case where an appeal or representation such as is mentioned in clause (b) of 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 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), or, 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 in 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."

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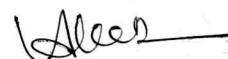
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A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21 (1) or Section 21 (2) or an order is passed in terms of sub section (3) for entertaining the application after the prescribed period. Since Section 21 (1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21 (3).

In the present case, the Tribunal entertained and decided the application without even adverting to the issue of limitation. Learned Counsel for the petitioner tried to explain this omission by pointing out that in the reply filed on behalf of the respondents, no such objection was raised but we have not felt impressed. In our view, the Tribunal cannot abdicates its duty to act in accordance with the statute under which it is established and the fact that an objection of limitation is not raised by the respondent/non applicant is not at all relevant.

A copy of this order be sent to the Registrar of the Principal Bench of the Tribunal, who shall place the same before the Chairman of the Tribunal for appropriate order."

4. The above view has again been reiterated by the Hon'ble Apex Court in the case of **Satish Kumar Gajbhiye**,



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IPS –Versus- Union of India and others (Special Leave to Appeal (Civil) Nos.16575-16576 of 2011 disposed of on 25.7.2011).

5. A person who feels that his/her right has been abridged in any manner, must approach the Court within a reasonable period. This is necessary to avoid dislocating the administrative set up after it has been functioning on a certain basis for years. The impact on the administrative set up is a strong reason to decline consideration of a stale claim unless the delay is satisfactorily explained. In view of the law laid down above, inordinate and unexplained delay and/or laches is by itself a ground to refuse relief to the petitioner, irrespective of a merit of his claim. Accordingly this OA stands dismissed by leaving the parties to bear their own costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member(Judl.)