

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O. A. No. 538 of 2013

Cuttack this the 19th day of August, 2013

CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER (J)

HON'BLE SHRI R.C.MISRA, MEMBER (A)

.....

Anil Kumar Sahoo, aged about 21 years, Son of Naresh Sahoo,  
At/Po.Tulsipal, Ps/Dist. Angul.

.....Applicant

(By the Advocate(s)-M/s.D.K.Dhar,B.Senapati)

-VERSUS-

**Union of India represented through**

1. Secretary, Steel and Mines Department, New Delhi.
2. Managing Director, Nalco, At/Po/Dist.Angul.
3. Manager, HRD Nalco, Dist. Angul.
4. Land Acquisition Officer, Angul, Dist. Angul.

.....Respondents

(By the Advocate(s)-Ms. S. Mohapatra)

**ORDER**

(Oral)

**A.K.PATNAIK, MEMBER (JUDL.):**

The prayer of the applicant in this OA is direction to the Respondents to provide him appointment under rehabilitation assistance scheme being the adopted son of the owner whose land was acquired for construction of a NALCO project at Angul in the year 1990 by placing reliance on the order dated 12.4.1990, Xerox copy of the affidavit dated 24.9.2010 and dated 24.9.2010. Copy of this OA has been served on



Ms.S.Mohapatra, Learned panel Counsel for the NALCO. We have heard Mr.D.K.Dhar, Learned Counsel for the Applicant and Ms.S.Mohapatra, Learned panel Counsel appearing for the NALCO-Respondent and perused the records. By drawing our attention to the documents placed at Annexure-A/1 to 3 <sup>the applicant</sup> has contended that in view of the order declaring the applicant to be the adopted son of the land oustee, the NALCO-Respondents ought to have considered and provided him appointment on compassionate ground. Having done so, the NALCO-Respondents have acted against their promise made to the land oustees through specific instructions and legitimate expectation of the applicant. On the other hand, Ms.Mohapatra, stoutly contested the contention advanced by Mr.Dhar. It has been stated by her that for the first time the applicant has come up with this OA praying for direction even without making any approach before the competent authority to provide him appointment on compassionate ground and as such as per the provisions of section 20 and 21 of the administrative Tribunals Act, 1985 this OA is liable to be dismissed.

2. After considering the rival contentions of the parties, we have perused the provisions of section 20 and 21 of the Administrative Tribunals Act, 1985 vis-à-vis pleadings and materials placed in this OA. Section 20 of the A.T.Act, 1985 provides that no application shall be admitted unless remedies are exhausted by the party. Similarly, in Section 21 of the said Act provides period of limitation in approaching this Tribunal.

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5

3. No application seeking condonation<sup>of</sup> delay has been filed by the Applicant. No instruction or circular in which any promise was made to provide rehabilitation assistance as in the instant case has been filed along with the OA. The Hon'ble Apex Court in the case of Satish Kumar Gajbhiye, IPS V Union of India and Others in Special Leave to Appeal (Civil) No(s) 16575-16576/2011 held as under:

"We have considered the argument/submission of the learned counsel but have not felt impressed. Although, the Tribunal had <sup>a</sup>negatived the plea of bar of limitation raised by respondent No.3 and the High Court did not even consider the issue of limitation, but after having carefully scrutinized the record, we are convinced that the original application filed by the petitioner was barred by limitation and the Tribunal committed serious jurisdictional error by entertaining the same. Section 20 and 21 of the Administrative Tribunals Act, 1985 (for short "the Act"), which have bearing on the issue of limitation read as under:

**"20. Application not to be admitted unless other remedies exhausted –**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other

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person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

"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 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 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), 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

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specified in sub-section(2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

Section 20(1) of the Act which is couched in negative form lays down that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Sub Section (2) of Section 20 provides for extension of time by six months where the appeal preferred or representation made by the aggrieved employee has not been decided by the Government or other competent authority.

Section 21 is also couched in a negative language. It imposes an embargo against admission of an application if the same is not filed within the time prescribed under clauses (a) and (b). Of course under sub section (3) of Section 21, the Tribunal can admit an application after expiry of the period specified in sub section (2), if it is satisfied that the applicant had sufficient cause for not filing the application within the prescribed period.

In the present case, the petitioner has neither pleaded nor any material has been placed before the Court to show that representation dated 12.11.2004 and 27.1.2005 had been made by him under the relevant service rules or any other procedure prescribed by the Government for redressal of grievances. Therefore, he could have filed application within one year from the date of appointment of respondent No.3 in the Maharashtra cadre as an insider candidate. The argument of the learned counsel that the petitioner should not be non-suited on the ground of limitation because till 2003 he did not know about the allotment of respondent No.3 to the Maharashtra Cadre sounds attractive but it is not possible to accept the same because the petitioner has not produced any evidence to show that he had come to know about the appointment of respondent No.3 only in 2003. The representations made by him are absolutely silent on the issue of his having come to know about allocation of respondent No.3 to the Maharashtra cadre in 2003.

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6


OA No.538/2013  
AKSahoo-Vrs-UOI&Ors

The record of the case shows that the application was filed by the Petitioner after more than two years of the appointment of respondent No.3 and no application was filed under sub section (3) of Section 21 for condonation of delay. Therefore, the Tribunal was not entitled to entertain the application filed by the Petitioner under Section 19 of the Act.

The Petitioner's prayer for setting aside order dated 16.5.2011 was misconceived because order dated 30.3.2011 did not suffer from any error apparent on the face of the record and the High Court rightly declined to review the same."

4. In view of the facts and law discussed above, this OA stands dismissed being hit by law of limitation. There shall be no order as to costs.

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

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