

13

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O. A. NO. 260/00 363 OF 2014
Cuttack this the 18th day of September, 2014

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

.....
Mahendra Yadav,
aged about 48 years,
Son of Late Dindayal Yadav,
Q.No.6, Bagichapada, Rajgangpur,
Dist- Sundergarh.

...Applicant

(Advocates: M/s. Bharati Dash, R. Singh)

VERSUS

Union of India Represented through

1. Secretary-cum- Chairman,
Government of India,
Tele-Communication and IT 20, Ashoka Road,
Sanchar Bhawan, New Delhi-10001.
2. Chief General Manager,
Bhubaneswar Circle, Bhubaneswar,
Dist- Khurda.
3. Sr. General Manager,
Telecom District Rourkela,
Dist - Rourkela.

... Respondents

Advocate: Mr. S.B.Jena (For R -1)
Mr. K.C.Kanungo (For R -2 &3)

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ORDER (ORAL)

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

We find that the case came up for admission on 16.05.2014 when even after two pass overs none appeared for the applicant. On 04.08.2014 when the matter came up we found that the copy of the O.A. was not served on Mr. K.C.Kanungo, Ld. Counsel appearing for Respondent



Nos. 2 and 3 and, accordingly, on the prayer made by Ld. Counsel for the applicant to serve a copy of the O.A. it was directed to list the matter on 06.08.2014. On 07.08.2014 even after two pass overs none appeared for the applicant but Mr. S.B.Jena, Ld. Counsel for Respondent No.1, and Mr. K.C.Kanungo, Ld. Counsel appearing for Respondent Nos. 2 and 3, were present. Again, when the matter came up on 14.08.2014 though Mr. K.C.Kanungo and Mr. S.B.Jena were present, none appeared for the applicant and, accordingly, the matter was directed to be listed as and when moved. Again the matter was listed on 19.08.2014 when after two pass overs none appeared for the applicant, ~~2014~~ ^l although Mr. K.C.Kanungo and Mr. S.B.Jena were very much present in the Court, the matter was posted to ^{and l} _r 22.08.2014. On 22.08.2014 both Mr. K.C.Kanungo and Mr. S.B.Jena vehemently objected to very maintainability of the O.A. on the ground of limitation as well as non-joinder of parties, however, on the prayer made by Ld. Counsel for the applicant, the matter was adjourned to 26.08.2014. On 26.08.2014, again on the prayer made by Ld. Counsel for the applicant the matter was directed to be listed on 03.09.2014. On 03.09.2014 though both Mr. K.C.Kanungo and Mr. S.B.Jena were present, none appeared for the applicant even after two pass overs.

2. Today again though both Mr. K.C.Kanungo and Mr. S.B.Jena are present, however, Ld. Counsel for the applicant prays that the matter may be listed after two weeks as the applicant is ill. Both Mr. K.C.Kanungo, Ld. Counsel appearing for Respondent Nos. 2 and 3, and Mr. S.B.Jena, Ld. Counsel appearing for Respondent No.1, vehemently objected to very



maintainability of the O.A. on the ground of limitation as well as non-joinder of parties.

3. We find that in the instant case the applicant has prayed for promotion to the post of Phone Mechanic w.e.f. 07.11.1997 considering his seniority as well as gradation in the rank of Phone Mechanic but he has not mentioned as to who are the persons who are likely to be affected and over whom the applicant wants to march ahead and wants retrospective promotion w.e.f. 07.11.1997 so also for payment of all consequential financial benefits. Therefore, by considering the above aspect, we are of the opinion that the O.A. is hit by the non-joinder of parties as well as the limitation as none of the parties likely to be affected has been arrayed as party Respondent in this case and the cause of action arose on 07.11.1997.

4. Section 21 of the Administrative Tribunals Act which deals with regard to the limitation envisages 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 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 specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

5. In the recent judgment, the Hon’ble Apex Court in the case of **State of Tripura Vs. Arabinda Chakraborty** reported in (2014) 6 SCC page 460 has held that the “suit was hopelessly barred by law of limitation. Simply by making a representation when there is no statutory provision or there is no statutory appeal provided, period of limitation would not get extended. The law does not permit extension of period of limitation by mere filing of a representation. The period of limitation commence from the date on which the cause of action takes place. x x x. Submission of the Respondent to the effect that the period of limitation would commence from the date on which his last representation was rejected cannot be accepted. The Courts below erred in considering the date of rejection of the last representation as the date on which the cause of action had arisen”.

Recently, in another case, in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others Vrs T.T.Murali Babu,**



reported in AIR 2014 SC 1141 the Hon'ble Apex have heavily come down on the Courts/Tribunal for entertaining matters without considering the statutory provision of filing application belatedly. The relevant portion of the observations of the Hon'ble Apex Court are quoted herein below:

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects activity and inaction on the part of a litigant- a litigant who has forgotten the basic norms, namely “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility and remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings injustice, for it is likely to affect others. Such delay may have impact on others ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with ‘Kumbhakarna’ or for that matter ‘Rip Van Winkle’. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.” (paragraph -16)

Wiley

6. Keeping in mind the aforesaid dicta of Hon'ble Supreme Court, we do not find this case to be entertainable before the Tribunal both on the ground of limitation as well as non-joinder of parties. Consequently, the O.A. is dismissed on the aforesaid ground.


MEMBER(Admn.)


MEMBER(Judl.)

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