

I/13

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A.No. 20/1996

Date of Order : 16.2.1996

S.B. Chatterji

... Applicant

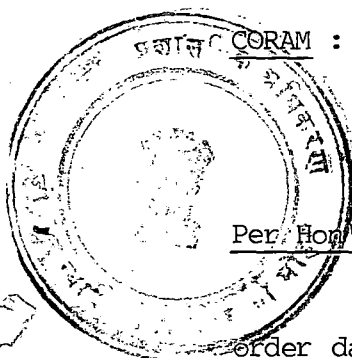
VERSUS

Union of India & Ors.

Respondents

Mr. S.B.Chatterji

Applicant present in person



HON'BLE MR. N.K. VERMA, ADMINISTRATIVE MEMBER
HON'BLE MR. RATTAN PRAKASH, JUDICIAL MEMBER

Per Hon'ble Mr. N.K. Verma :

This O.A. from the applicant wherein he has assailed the order dated 27.10.94 of the respondent at Annexure A/1. The facts of the case are that the petitioner had earlier assailed the orders of the respondents dated 8th May, 1986 through an O.A. No.440/1987 before this Bench which was dismissed on ground of limitation. The applicant thereafter went to the Supreme Court with an S.L.P. which issued notices but did not grant the S.L.P. Thereafter, the applicants came back to the Tribunal with a Review petition which also got rejected on 12.7.1990 because of the delay in filing the same. Thereafter the petitioner again went to the Supreme Court against this rejection of his Review Petition which also was not granted by the Supreme Court. After having failed with the judicial system, the applicant again went back to the General Manager, Northern Railway with a representation dated 9.9.1993 which has now been rejected by the impugned order dated 27.10.94 at Annexure A/1.

2. The applicant was present in the court himself and prayed for adjournment for admission of this matter. He had been present in this Bench earlier on 24.1.1996 and asked for adjournment. He repeated the same prayer today also on the ground that his counsel was not available. This prayer was not granted and the applicant was told to have his counsel in the court for arguing the case for admission today during the court hours or to argue the case himself if he so chooses. The applicant thereafter argued his case himself in person. In reply to the question that whether the case is hit by the principle of res judicata the applicant stated that this is not so as the S.L.P. was rejected by the Supreme Court not on points of merits but only on

points of delay. He, on our questioning him about the various stages through which he had processed his claim and that debarred him from litigation in this forum as was held by this Bench in its earlier decision in O.A. No.440/87, the applicant brought to our notice the latest representation and the reply thereto issued on 27.10.94. He had filed this O.A. on 31.10.95. Thus, he was well within the limitation prescribed under the law.

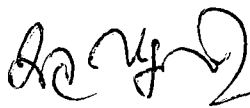
3. We have given adequate consideration to the arguments made by the applicant in person. The applicant is not a legal practitioner and he does not understand that an S.L.P. decided by the Hon'ble Supreme Court cannot be said to be an order without going into merits. The copy of the order regarding S.L.P. as annexed at A/3 clearly says that "Upon hearing counsel the Court made the following Order - The Special Leave Petition is dismissed." The Hon'ble Lordships of the Supreme Court have given an order after due application of mind which cannot be questioned by a litigant who tries to reopen the matter taking the shelter of a reply given on a representation filed by him subsequent to the rejection of that S.L.P. as dismissal not communicated with merits. Since the dismissal was after issue of notice and hearing the matter, we cannot infer that this case was dismissed without taking into consideration the point on merits of the case. The applicant had also not annexed the Review Petition which got rejected by the Tribunal against which the S.L.P. was filed. Since the applicant himself has not come with clean hands, we are sure that the points made by him in that S.L.P. were not ^{all} worthy of any consideration.


4. The matter is also hit by the principle of res judicata, since the subject matter of the O.A. was adjudicated in former suit between the same parties and the issues raised has been heard and finally decided by the court. In this case the matter was decided by the Tribunal and the Review Petition thereon was also rejected. There was ^{no} question of reagitating the matter through this O.A. after the receipt of the reply on his representation filed on 9.9.93 ^{which} will not take him out of the law of limitation. It is well settled proposition of law that ~~a~~ repeated representation and reply thereto cannot be construed to have changed the date of cause of action. The cause of action in this matter arose in 1986 and this matter was finally decided by this Bench as barred by limitation and therefore, was rejected. Even this application has been made after the prescribed period of one year, which expires on 26.10.1995. We are, therefore, clearly of the view that this matter in this O.A. is grossly time barred and hit by the law of limitation.

5. At one stage the applicant had brought to our notice that this O.A. is for grant of pensionary benefits to him and since matter related to pension, a cause of recurring grievance in this case will not be hit by the law of limitation. On going through his O.A. it is seen that the relief sought is regarding proforma promotion and seniority as Signal Inspector and against the order of the General Manager, Northern Railway dated 8th May, 1986. Thus, the applicant's contention that the O.A. relates to pensionary benefits is totally a misrepresentation as the pensionary benefits would accrue to him only after his adjudication regarding the seniority and promotion are decided.

6. We are fully convinced that the applicant had deliberately tried to mislead the Court by stating during the arguments that the O.A. related to pension which has provided him a recurring cause of action. As a result, the O.A. is dismissed at the stage of admission.

7. The applicant in this case has been indulging in vexatious litigation even though in the very beginning his application was dismissed on the ground of limitation, as also his Review Petitions and S.L.Ps. He has wasted precious time of the Courts of Law unnecessarily and tried to enter into a fresh round of litigation through this O.A. Such kind of litigants need to be controlled. Therefore, we award a cost of Rs.1000/- against this applicant for vexatious litigation. He should pay this amount in the Registry of this Tribunal within a period of Fifteen days, failing which steps will be taken to recover the same as per law.


(RATTAN PRAKASH)
Judl. Member


(N. K. VERMA)
Administrative Member

Received
speaking
1/3/96

Part III and III destroyed
in my presence on 3/13/02
under the supervision of
section officer (J) as per
order dated 12/13/02

Section officer (Record)
J

Issued copy of judgment dt. 10/2/96
to the respondent IX (R-167-4)
and along with copy of OA & 14
American Page (to 1654)
vol. 83 to 86
dt. 11-3-96