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CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR

Original Application No. 199/2002

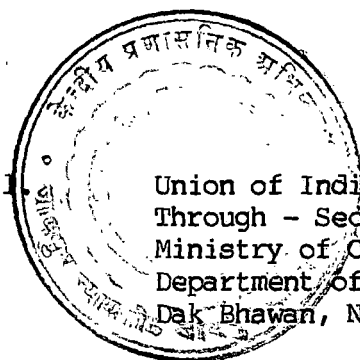
and

Misc. Application No. 95/2002 (in O.A. No. 199/2002)

Date of Order: 6.03.2003

Sh. B.M. Saboo S/o Shri Ram Pal, age 73 years, retired  
Sub Post Master, Chopasani Road, Jodhpur, R/o Pyarelal  
Ojha, Fateh Sagar, Jodhpur (Raj.).

...Applicant (in O.A. & M.A)



V E R S U S

Union of India  
Through - Secretary,  
Ministry of Communication,  
Department of Post & Telegraph,  
Dak Bhawan, New Delhi.

2. The Senior Superintendent,  
Post Offices,  
Jodhpur (Raj.)

...Respondents (in O.A. & M.A.)

Mr. Salil Trivedi, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

CORAM:

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman.

..2..

ORDER

Per Mr. Justice G.L.Gupta:

The applicant was a Postal employee. He retired on 31.10.85. In March, 1991, he came through an advertisement in the local News Paper that retired Postal employees could be engaged on 'hourly basis' at the rate of Rs.4.40/- per hour. The applicant also applied for the same. He was engaged in the Jodhpur Head Post Office on 4.4.91. He continued on the job till 30.9.96 and received wages at the rate of Rs.4.40/- per hour.

2. The case for the applicant is that the respondents had also engaged Reserved Trained Pool candidates ( RTP candidates for short ) for the same job and they were paid Rs.11.65 per hour, whereas the Short Duty Postal Assistants (SDPAs for short ), like the applicant were paid only Rs.4.40/- per hour. It is averred that a Full Bench of this Tribunal, at Bangalore, rendered a decision on 26.4.2000 in O.A No. 659/99, holding that SDPAs are also entitled to the same hourly rates as paid to RTP candidates. The applicant, therefore, made a representation to the respondents for payment of the balance amount. There was no response. He then sent a registered notice for Demand of Justice. Since no relief was granted, this O.A has been filed with a request to direct the respondents to pay the arrears calculated at the hourly rate equivalent to that paid to RTP candidates.

3. In the reply, the respondents' case is that the applicant was engaged as SDPA, from June 1991 to 30.9.95, and he was paid wages as per the agreed terms. It is stated that while accepting the job and serving as SDPA, the applicant never raised any objection regarding the rate of payment. It is pleaded that the



claim is hopelessly barred by limitation. It is further stated that the Directorate, on 11.1.88 had made it clear that hourly rate paid to the RTP candidates were not applicable to the retired SDPAs.

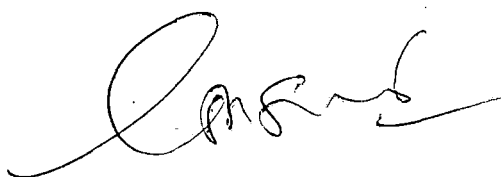
4. Heard the learned counsel for the parties and perused the documents placed on record.

5. The learned counsel for the applicant raised a preliminary objection that the application should be dismissed on the ground of limitation and the Court should not go into the merits of the case.

6. The learned counsel for the applicant contended that the Full Bench at Bangalore decided the issue vide judgement dated 26.4.2000, and thereafter the applicant made a representation and therefore the O.A should not be dismissed on the ground of limitation. In any case, he pointed out, the applicant has filed a Misc. Application for condoning the delay.

7. The learned counsel for the respondents contended that there is no sufficient cause stated in the Misc. Application for condoning the delay.

8. I have considered the above contentions. It is manifest that the cause of action, if at all arose, it arose between the years 1991 and 1996. This application has been filed on 2.8.2002. Section 21 of the Administrative Tribunals Act, 1985, provides that Tribunal shall not admit an application, if it is not filed within one year from the date of final order or if it is filed against any representation within one year after the expiry of six months from



the date of filing of such representation.

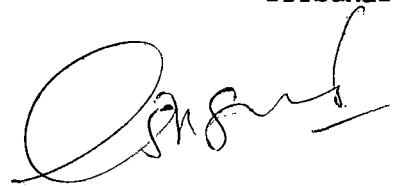
9. This application is not against any final order. It is on the basis of the representation ( Annex. A.1) dated 20.1.2001. This O.A has not been filed within 1½ years from the date of filing of representation dated 20.1.2001. hence it is barred by limitation and liable to be dismissed on the ground of limitation alone.

10. The question to be considered is whether on the ground that the Full Bench at Bangalore decided similar issue in April 2000, the applicant can approach the Tribunal for the cause of action which had arisen in the years 1991 to 1996.

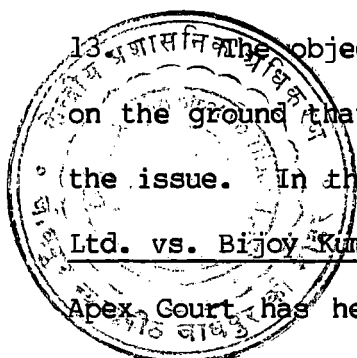
11. The Supreme Court in the case of State of Karnataka and others vs. S.M. Kotrayya and others [1996 SCC (L&S) 1488 ], held that the explanation that the respondents had filed applications on coming to know that in similar claims, relief had been granted by the Tribunal, would not be a proper explanation to justify condonation of delay. It is profitable to reproduce the observations appearing at para 9 of the report hereunder:

Thus considered, we hold that it is not necessary that the respondents should given an explanation for the delay which occasioned for the period mentioned in sub sections (1) and (2) of Sec. 21, but they should give explanation for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be required to satisfy itself whether the explanation offered was proper explanation. In this case, the explanation offered was that they came to know of the relief granted by the Tribunal in August 1989 and that they filed the petition immediately thereafter. That is no a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore the Tribunal is wholly unjustified in condoning the delay. "

(emphasis supplied)



12. In the instant case, the condonation of delay has been prayed only on the ground that the applicant having come to know about the decisions of the Bombay and Bangalore Benches of this Tribunal has filed this application. This cannot be a sufficient ground for condonation of delay, as has been held by the Apex Court in the case of S.M.Kotrayya and others ( supra ).



13. The objection of limitation cannot be side tracked only on the ground that one Bench of the Tribunal has already decided the issue. In the case of M/s Kerala Agro Machinery Corporation Ltd. vs. Bijoy Kumar Roy and others [ JT 2002 (2) SC 357 ], the Apex Court has held that the objection of limitation cannot be taken lightly. The National Commission, therein had observed that at that late stage there could not be any interference of the order of the State Commission on the point of limitation. Their Lordships of the Apex Court did not approve the approach of the National Commission and observed that there was no justification for negating the plea of limitation with such cursory and passing observations and allowed the appeal preferred by the Firm.

13. That being so, even if the Full Bench at Bangalore has taken the view in O.A. No. 659/99 in Rangaiah and others vs. Union of India and others on 26.4.2000, i.e. the SDPAs engaged after their retirement are entitled to claim the payment of hourly rates at par with RTP candidates, the applicant cannot succeed in this matter.

14. Consequently, this application is dismissed as barred by limitation. M.A. for condoning the delay is also dismissed.

15. No order as to costs.

(G.L.Gupta)

Vice Chairman.

R. W. 124.  
Sum  
12.3.03

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Part II and III destroyed  
in my presence on 12.6.08  
under the supervision of  
section officer ( ), as per  
order dated 27/11/08

11/12/13  
Section officer (Record)