

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

M.A. 166/97

O.A. 488/1997

Date of order: 8.02.02.

Present: Hon'ble Mr. B.P. Singh, Administrative Member.

Hon'ble Mr. Kuldip Singh, Judicial Member.

Tapan Kumar Biswas

- v e r s u s -

1. Union of India, through the Secretary, Ministry of Communication and Posts.
2. The Post Master General, West Bengal Circle, Yogayog Bhawan, Calcutta-700 012.
3. The Inspector of Post Offices, South Calcutta Second Division, Calcutta-700 053.
4. The Sr. Superintendent of Post Offices, South Calcutta Division, Calcutta-700 029.

...Respondents.

For the applicant : Dr. (Ms) S. Sinha, counsel.

For the respondents : Mr. B. Mukherjee, counsel.

O R D E R

Sri Tapan Biswas has filed this O.A. challenging the non-consideration of the representations dated 1.3.93 and 4.12.95.

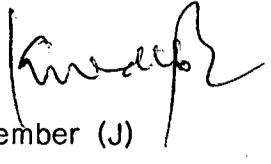
2. The facts as alleged by the applicant are that he was initially appointed as substitute Postman (Group-D) in the Bhawanipore Post Office in the year 1981-82 vide order dated 10.8.81. His service came to an end on the ground that he was substitute. Later on, the department has considered the matter and accordingly issued a circular whereby the applications were invited for filling up the vacant posts of EDA. The applicant made representation which was rejected. The applicant had filed an O.A. which was also dismissed on the ground of limitation. Against the order the applicant filed an S.L.P. before the Hon'ble Supreme Court. The order of the S.L.P. was also annexed as Annexure-E which shows that S.L.P. was also dismissed.

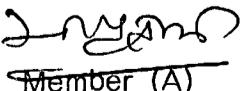
3. After the dismissal of the S.L.P., the applicant had again made representations vide Annexure-F. The representations have not been considered since the applicant had already lost his case in the O.A.

4. The respondents have taken an objection that since the applicant had already agitated before this Tribunal as well as before the Supreme Court. Both the petitions of the applicant were dismissed. The respondents' case is that the present petition is barred by principles of res-judicata. Therefore, the applicant cannot file a fresh O.A. on the same cause of action. It has also been submitted by the Id. counsel for the respondents that a considerable delay has ~~been~~ occurred in filing the O.A. by the applicant. Therefore, the same is barred by limitation as enshrined under section 21 of the AT Act.

5. We have heard both parties and have gone through the records.

6. The fact is that the applicant had earlier filed an O.A./admitted by the applicant. The applicant had also gone to Hon'ble Supreme Court against the order passed in his earlier O.A. which was also dismissed. Now the applicant has come up before this Tribunal with the same issue with a view that the delay in filing the earlier O.A. had been condoned by the Supreme Court whereas the order of the Supreme Court as well as the order of the Tribunal does not show that the delay in filing the earlier O.A. had been condoned. Thus we find the present O.A. has raised the same issue which was in issue at the time of filing of the earlier O.A. Therefore, the present O.A. is barred by the principles of res-judicata. Besides, that application is also barred by way of limitation and though the applicant had made an application for condonation of delay on the grounds mentioned therein that the applicant from 1992-96 was under mental depression and because of that, he could not file the O.A. within the limitation period, But we find no medical certificate has been annexed with the M.A. Only on the ground of limitation the application fails. Therefore, the O.A. is dismissed.


Member (J)


Member (A)