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Reserved

Central Administrative Tribunal, Allahabad.
Circuit Bench, Lucknow
Registration O.A.No.198 of 1987

Mahesh ... Applicant

Vs.

Sri Saran Behari, Public
Relations Officer ... Respondent

Hon. Ajay Johri, AM
Hon. G.S. Sharma, JM

(By Hon. G.S. Sharma, JM)

In this application u/s.19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act) filed on 24.2.1987, the applicant has prayed that he should be treated in service in the Income Tax Department since March 11, 198.. and loss and damages for mental torture as well as arrears of pay be paid to him. The application filed by the applicant is not in the prescribed proforma and does not contain the necessary facts and is more of the argumentative nature. It appears from the annexures to the application and the reply filed by the respondent that the applicant was employed as Waterman on daily wages from 11.3.1980 to 28.9.1984 in the office of the Commissioner of Income Tax, Lucknow. On 9.11.1984, Sri P.N.Kansal the then Public Relations Officer in the office of the Chief Commissioner of Income Tax, U.P. Lucknow called for the explanation of the applicant for his allegedly changing the tyre and tube of the cycle of an Income Tax Inspector Sri Abrar Ali from the office premises. The allegation made against him was denied by the applicant in his explanation dated 13.11.1984. The applicant was, however, not given any work/duty from 29.9.1984. The applicant made a representation to the Public Relations Officer on 31.10.1986 requesting him to give reasons for not giving any duty to the applicant. In response to this, the

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respondents had replied on 11.12.1986 that the applicant was appointed as a daily wager and in accordance with the conditions of his service, it was not necessary to disclose the reasons for dispensing with his services. Aggrieved by this order, the applicant first approached the authorities under the Industrial Disputes Act as appears from some of the annexures filed by him claiming himself to be a worker and thereafter filed this petition against the respondent in his personal capacity as he had given the reply dated 11.12.1986 aforesaid.

2. A reply to the petition was filed by one K.K.Mahajan describing himself as the Income Tax Officer (hqrs.) (Public Relations) to the Chief Commissioner (Administration) of the income Tax Lucknow. In this reply it was stated that as the applicant was a daily wager, he was orally asked not to come to the office and according to the terms and conditions of his appointment it was not necessary to give the reasons to the applicant for not taking him on duty. It was further stated that the applicant was appointed by the Commissioner of Income Tax and his services were also terminated by the same authority and his orders were communicated by the respondent. The petition filed against the Public Relations Officer only is not maintainable under the law. The applicant ~~could~~ not get any salary ~~for~~ damages and his petition was not maintainable under the law.

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3. The applicant did not file any rejoinder to the reply nor took any steps for impleading his appointing authority or the Union of India as a party to this petition. On the other hand, he tried to get this petition decided in a hot-haste and even on the last date of hearing, on his insistence, we had to conclude the hearing of this case. Under the present circumstances, the petition of the applicant can be disposed of on two short points, First, in the absence of the appointing authority, there can be no effective adjudication in this case and assuming for the sake of argument that the applicant is entitled to the reliefs or any of the reliefs claimed, no such relief can be granted against Sri Saran Behari Public Relations Officer, and, secondly, the applicant did not clearly disclose the date from which he was not allowed duty or was removed from service by his employer and only from the reply read with copy of the certificate dated 13.9.1985 issued by the respondent and filed as paper no.19 without noting any annexure number with his petition by the applicant, it appears that the applicant was not allowed to resume his duty from 29.9.1984. The relevancy of the date March 11, 1984 from which the pay has been claimed by the applicant in the petition does not appear from the record. The applicant did not file any appeal or representation before any authority after his removal from service and had addressed a letter on 31.10.1986 to the Public Relations Officer only for taking him back. This cannot be considered to be an appeal or repre-

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sentation contemplated by Sections 20 and 21 of the Act and as such, the petition filed by the applicant on 24.2.1987 against his removal from service w.e.f. 29.9.1984 is clearly barred by limitation prescribed by S.21 of the Act.

4. In view of the insistence of the applicant to decide his case expeditiously, we do not think it expedient to issue any direction to the applicant to implead the necessary persons in this petition now. We further did not think it proper to issue such direction as the limitation against such persons has also expired. In view of the legal difficulties as discussed above, it does not seem necessary to dwell on the merits of the case of the applicant.

5. The petition is accordingly dismissed without any order as to costs.

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MEMBER(J)

Dated: 29.8.1988

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~~MEMBER(A)~~