

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH: PATNA

REGISTRATION NO.OA-159 OF 1996

(Date of order

6. 5.1996

Prem Jeet Nath TewaryApplicant

Versus

Union of India & OthersRespondents

Counsel for the applicant : Mr. B.S.Tiwary
Mr. A.K.Pandey.

Coram: Hon.'ble Mr. N.K.Verma, Member (A)

O R D E R

Hon.'ble Mr. N.K.Verma, Member (A):

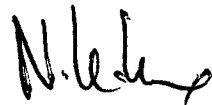
Mr. B.S.Tiwary, learned counsel for the applicant who argued on this matter for admission for the grant of relief to the applicant by quashing the order at Annexure-12 by which the applicant's representation was rejected by the Railway respondents. The agitation made in this OA was also agitated before a Division Bench in OA-191 of 1993 which was dismissed on 26.5.1995 due to delay in filing the OA in proper time. The Bench at that time had found no grounds canvassed by the applicant for condonation of delay and accordingly the matter was dismissed. However, the Bench had given a direction to the

Railway Administration to dispose of the representation pending before them within two months of the receipt of this order without being prejudiced due to dismissal of the case on the ground of limitation. The applicant had thereafter, moved the Chief Personnel Officer of the Eastern Railway, who, through a speaking order dated 20th September, 1995 found his representation not acceptable, hence the OA. Shri Tiwary, during the course of arguments pressed that the application is no more hit by limitation as a fresh cause of action has arisen on 20th September, 1995 when the representation of the applicant was rejected. He also stated that the OA is not hit by the Principles of resjudicata also, as the subject matter of the agitation is the quashing of Annexure-12 which was not agitated in the previous OA.

2. Having heard Shri Tiwary, one cannot but come to the irresistible conclusion that the entire exercise of the applicant in this matter has been to circumvent the Law of Limitation which has worked heavily against him. The OA No.191 of 1993 was dismissed by the court on merits after taking into consideration all factors including the limitation. If a matter is dismissed on grounds of limitation this cannot be wished as a dismissal on technical grounds. Delay and laches are very important factors which govern the adjudication before the Tribunal and High Courts. The Hon.'ble Supreme Court has held in catena of judgments that delay robs a person of his legal rights. In the case of Ratan Chandra Samanta vs. Union of India & Others, which was decided by the Hon.'ble Supreme Court recently, the Apex Court held "delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by loss of time loses his right as well." In the case of Madhya Pradesh Vs. Mahesh Prakesh & Others, the Supreme Court calculated the period of delay and laches in filing a writ petition under

: 3 :

Article 226 of the Constitution of India from June, 1976, when the first representation of the Judicial officer was considered by the full court and rejected even though the second representation made four years thereafter was again considered by the Full Court and rejected. The ratio of the judgment is not merely because a subsequent representation is considered by the authority and rejected, limitation does not get extended if the claim is already barred by limitation. It is also pertinent to note that in the case of S.S.Ratphore vs. State of Madhya Pradesh 1990 SCC (L & S) 50, A seven Judge Bench of the Supreme Court held that repeated non-statutory representation will not extend the period of limitation. These observations were made with reference to Section 21 of the A.T. Act, 1985. Shri Tiwary made a very strenuous efforts stating that a cause of action has arisen after the representation was rejected in September, 1995. In view of the observations and directions of the Hon.'ble Supreme Court as quoted above, it is entirely out of question to accept the arguments of learned counsel for the applicant. It is also to be remembered that adjudication in the matter does not provide a fresh cause of action. The applicant had woken up to his claims only after some similarly situated officials had been given relief in the matter by other Benches of the Tribunal. This fact was taken into consideration by the learned Division Bench while disposing of OA 1991 of 1993. In view of these attempts of Shri Tiwary to have re-opened the matter and adjudicated again is considered a futile exercise and the OA is dismissed at the admission stage itself.



(N.K. VERMA)

MEMBER (A)