

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A.NO.:231/96

DATE OF DECISION : 11-JULY-1996.

SHARVAN KUMAR. : APPLICANT.

Vrs.

THE UNION OF INDIA & ORS. : RESPONDENTS.

COUNSEL FOR THE APPLICANT. : SMT. M.M.PAL.

COUNSEL FOR THE RESPONDENTS. : NONE.

C O R A M

HON'BLE MR. N.K.VERMA, MEMBER [ADMINISTRATIVE]

ORDER DICTATED IN OPEN COURT

HON'BLE MR. N.K.VERMA, MEMBER [A]:

Heard Smt. M.M.Pal, the learned counsel for the applicant. In this O.A. the applicant has prayed for quashing the order dated 16.09.1988 by which his services were terminated with a direction to the respondents to reinstate him in the post that he was holding at the time when his services were terminated. This was the subject matter of an earlier O.A.No. 628/95 which was disposed of with a direction that respondent no.3 shall dispose of the representation of the applicant within a period of three months from the receipt of the Tribunal's order through a speaking and reasoned order. The Bench at that time had also felt that the O.A. was prima facie barred by limitation but at that time the learned counsel for the applicant had referred to the decision reported in 1991 [ATC] Vol.16, P.249, by which she had established that persons in similar identical situation

needed to be given the benefit of the decisions in identical matters. She pressed the same point before me that though the applicant was terminated in 1988, persons who were appointed to the similar post and who were terminated subsequently by the respondents were given the relief of reinstatement under the orders of this Tribunal. The applicant also is a similarly situated ex-employee of the respondents office and, therefore, warrants relief in the same manner.

2. There is no doubt about the fact that the termination of the applicant's services were ordered in 1988 and he should have made representation and filed O.A. before this Tribunal as was done by two other applicants. Instead he had waited all along and after the two other terminated employees got relief he approached this Tribunal for relief in O.A.No. 628/95 which also was disposed of as stated earlier.

3. Prima facie the case is hit not only by the law of limitation but also by the principle of res-judicata as the applicant had filed an O.A. at this stage which was substantially adjudicated earlier in the O.A.No. 628/95. After the applicant's representation has been disposed of in terms of the directions of this Tribunal, the question of filing a fresh O.A. did not arise. Smt. Pal brought to my notice the judgments of the Hon'ble Supreme Court by which similarly situated persons have been given relief granted to others. I am not impressed by the submissions of the learned counsel for the applicant as the Hon'ble Supreme Court in the case of Bhoop Singh

quoted in the case of O.P.Sateja Vrs. Union of India & Ors., cited at [1995] 29 ATC, has held that "Delay of several years in claiming the relief of reinstatement cannot be ignored simply because some other similarly dismissed constables had been reinstated as a result of their success in the petitions filed many years earlier." In paragraph 6 in Bhoop Singh the following significant observations was made :

"If the petitioner's contention is upheld that latches of any length of time is of no consequence in the present case it would mean that such police constable can choose to wait even till he attains the age of superannuation and then assailed the termination of his service and claim monetary benefits for the entire period on the same ground that would be a startling proposition. In our opinion, this cannot be true import of Article 14 or the requirement of the principle of non-discrimination embodied therein which is the foundation of petitioner's case."

*re* The Hon'ble Supreme Court in the case of Ratan Chandra Samanta Vrs. Union of India, had held that "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 lapse of time loses his right as well." It is a settled principle of law that a decision in ~~another~~ other O.A. would not give rise to further ~~cause~~ cause of action through a fresh O.A.

4. Viewed in the context of these rulings and

decisions of the Hon'ble Supreme Court, I find that this O.A. is hopelessly time barred as also it is hit by the principle of res-judicata. The application, therefore, fails and is dismissed as not maintainable.

  
[N.K.VERMA  
MEMBER [A]

SKJ\*