

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 398
T.A. No.

1987

DATE OF DECISION 14-2-1990

Vasant Dattatrya Dandwate Petitioner

Mr. D.V.Gangal Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Mr.R.K.Setty Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, V.C.

The Hon'ble Mr. P.S.Chaudhuri, M(A)

- 1. Whether Reporters of local papers may be allowed to see the Judgement? X
- 2. To be referred to the Reporter or not? Yes
- 3. Whether their Lordships wish to see the fair copy of the Judgement? X
- 4. Whether it needs to be circulated to other Benches of the Tribunal? Yes

G.S.
(G.Sreedharan Nair)
Vice-Chairman

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH, NEW BOMBAY

Registration No. O.A. 398 of 1987

Date of decision 14.2.1990

Vasant Dattatrya Dandwate ..

Applicant

- versus -

The Union of India and others ..

Respondents

COFAM : Hon'ble Shri G. Sreedharan Nair, Vice-Chairman

Hon'ble Shri P.S. Chaudhuri, Member (A)

Counsel for the applicant : Mr. D.V. Gangal.

Counsel for the respondents : Mr. R.K. Setty.

O R D E R

G. Sreedharan Nair, Vice-Chairman : - The applicant, who was appointed as a Junior Telephone Operator on a temporary basis by the order dated 25.3.1982, has filed this application challenging the order dated 21.4.1983 terminating his service with effect from 30.4.1983 on payment of one month's pay and allowances. It is alleged that representations were being submitted against the order but no reply has been received and hence the application.

2. It is urged that the termination amounts to illegal retrenchment as the provisions of the Industrial Disputes Act have not been complied with, the order is void as having been issued by ~~the~~ an authority lower in rank to the appointing authority, and that it is violative of Article 311 as well as Articles 14 and 16 of the Constitution of India.

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e

3. In the reply filed by the respondents, it is stated that the application is barred by limitation under section 21 of the Administrative Tribunals Act and that the termination of service was on account of the fraudulent means in securing the employment.

4. At the time of hearing, counsel of the respondents raised the ^{preliminary} objection regarding bar of limitation. Though counsel of the applicant ~~vehemently~~ attempted to establish that there is no such bar, we are inclined to accept the objection.

5. This is an original application filed under section 19 of the Administrative Tribunals Act, for short 'the Act'. It is clearly laid down in sub-section (1) of section 19 of the Act that a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to the Tribunal for the redressal of his grievance subject to the other provisions of the Act. Section 21 embodies the period of limitation for making an application under section 19 of the Act. The impugned order having been passed on 2.4.1983 falls within clause (a) of sub-section (2) of section 21 of the Act. ~~In respect of~~ An application, the grievance in respect of which falls within the aforesaid clause (a) can be entertained by the Tribunal only if it is made within the period referred to in clause (a), or, as the case may be, clause (b) of sub-section (1) or within the period of six months from the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under the Act, whichever period expires later. Assuming that the representation that was submitted can be taken into account, since it is stated that no reply has been given to it, the period available is one-and-a-half years from the date of representation. According to the applicant, the first representation was given on 13.6. 1983. The receipt of such representation is denied by the respondents.

According to them, a representation dated 26.2.1984 was received. The period of one-and-a-half years from that date will expire on 25.8.1985. At that time the Tribunal was not established. Hence in view of sub-section (2) of Section 21 of the Act, the application had to be filed within a period of six months from the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under the Act. Since the application has been filed only in June, 1987, it is clearly barred by limitation.

6. Though a prayer has been made in paragraph 5 of the application for condoning the delay under sub-section(3) of section 21 of the Act, no sufficient cause for not making the application within the prescribed period has been urged therein or made out at the time of final hearing.

7. It was argued by counsel of the applicant that the order of termination being void, there cannot be any limitation for an application of this nature. We are unable to agree. Evidently, it is on account of the fact that the applicant is aggrieved by the impugned order dated 2.4.1983 that he has filed this application under section 19 of the Act. In view of the specific provision in section 21 of the Act incorporating the period of limitation for entertaining such an application, any application filed beyond the prescribed period cannot be entertained unless the applicant satisfies the Tribunal that he had sufficient cause for not making the application within the prescribed period. The alleged void nature of the order does not take away the application out of the ambit of section 21 of the Act. No doubt, an order if it is strictly void, may not have legal consequence, and can be ignored. But when a person approaches the Tribunal alleging that he is aggrieved by such order and makes an application for redressal of the grievance, the application is fully covered by the prescription of limitation under section 21 of the Act.

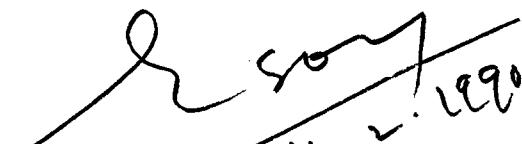
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8. It may be pointed out that at the time of admission of this application, a Bench of this Tribunal had admitted "keeping the point of limitation open" and after specifically ordering that "the point of limitation will be decided at the time of final hearing".

9. In the result, we uphold the preliminary objection that the application cannot be entertained in view of the bar of limitation. It is accordingly dismissed.



(P.S. Chaudhuri)
Member(A)



(G. Sreedharan Nair)
Vice-Chairman

Judgement dt 14.2.90
Served on Applicant
on dt. 26.3.90

24/4/90 

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for distribution

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