

15

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 558/87

Transfer Application No.

Date of decision 1.12.1993

Shri S.P.Sonawal & Ors. Petitioner

Shri D.V.Gangal. Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri A.I.Bhatkar. Advocate for the Respondent(s)

Coram :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri M.R.Kolhatkar, Member(A).

1. Whether the Reporters of local papers may be allowed to see the Judgement ? NO
2. To be referred to the Reporter or not ? NO
3. Whether their Lordships wish to see the fair copy of the Judgement ? NO
4. Whether it needs to be circulated to other Benches of the Tribunal ? NO


(M.S.DESHPANDE)
VICE-CHAIRMAN

(16)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.558/87.

Shri S.P. Sonawal & Ors.

.... Applicants.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicants by Shri D.V.Gangal.

Respondents by Shri A.I.Bhatkar.

Oral Judgment :

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 1.12.1993.

By the present application the applicants seek a declaration that the respondents were not entitled to clear a panel on 25.1.1979 of 84 candidates for promotion to the post of Junior Scientific Officer and the panel should have been drawn up for 46 regular vacancies and the Junior Scientific Officers and also for a declaration that the panel dt. 25.1.1979 is illegal.

2. The application is being opposed on the ground of limitation and the applicants contention primarily is that there was no delay in filing the present application, because limitation is saved by the order which was passed by disposing of the Review Application No.4/87 in Tr. Application No.98/86. Secondly, it is urged that there was sufficient cause for the applicant to file the present application belatedly because of the order of the Tribunal which permitted a fresh application for the relief being filed within a period of two months from the order dt. 31.6.1987. No reply has been filed to the

.....2.

application for condonation of delay, but Shri Bhatkar for the respondents urged that the reply was not necessary, as the facts were apparent from the record. The order of the Review Application shows that the Tribunal had considered all the submissions which had been made before the earlier order was passed of which a review was sought and ^{held} that the contention regarding the ad hoc promotion of the applicants as Junior Scientific Officers in 1979 is not correct, had not been raised and so there was no mistake or error apparent on the face of the record. It is clear, therefore, that the matter which is being raised by the present application had not been raised, ^{then} If we have to go by the order passed in the Review Application, ^{also if} had not been raised at the earlier stage. The question would be whether the Court saved limitation for filing the present application and in this context it would be useful to extract the last portion of the order which runs thus:

"Mr. Gangal, however, submits that it will be in the interest of Justice if this question is decided. We have heard Mr. Gangal and Mr. J. D. Desai we do not think that this point can be considered in a Review Petition. However, we direct that the applicant will be at liberty to file a fresh application raising this point and that application will be decided on merits, provided it is filed within two months from today."

3. It is clear that the Tribunal had not considered before it at that time, the question of limitation. It had not been raised by any of the parties and the order does not show that the Tribunal was also considering the question of limitation. Obviously, it was not open to the Tribunal if the claim was not within the time to allow extension of time as the Court is not ^{vested with} the power of extending limitation. All that can be gathered from the order

was that the point which had been pressed at the time of Review Application was left out and that it was not considered and therefore, ^{it could} be considered by a fresh application and it was only to this extent that the liberty came to be granted. The applicants contention in the application for condonation of delay that the question was not barred by res judicata is correct. It is not on the question of res judicata that we are considering the matter to day but on the plea of limitation.

4. Shri D.V.Gangal urged that the Act of the Court was the Act of the State and if the applicants were misled by the act of the Court, there was sufficient cause for us to condone the delay. It is obvious that if the applicant felt aggrieved by the order that was being reviewed and the order by which the review was refused, the remedy was to go up in appeal. Only because the applicant remained inactive ^{in limitation} expressly though the point has not been saved and the Court had not indicated that the period of limitation would not be taken into consideration when the fresh application was filed, the applicant has no justification for urging that the applicants were misled by the order of the Court. We find that there is no sufficient cause for the delay in filing the present application. The application for condonation of delay as well as the Original Application are therefore dismissed as barred by time.

MR Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A)

M.S. Deshpande

(M.S.DESHPANDE)
VICE-CHAIRMAN