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CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCH
CIRCUIT Sittings AT NAGPUR, NAGPUR.

O.A. No. 200/88 198
XXXXXX.

DATE OF DECISION 24.6.1988

Shri G.D.Gajbhye, Petitioner

Shri A.S.Bhagat Advocate for the Petitioner(s)

Versus

The General Manager, Ordnance Factories, Respondent(s).

Shri Ramesh Darda Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice-Chairman,

The Hon'ble Mr. P.Srinivasan, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
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

D. J. (S)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT Sittings AT NAGPUR, NAGPUR.

Original Application No.200/88.

Shri G.D.Gajbhiye,
Civil Motor Driver,
Ordnance Factory,
Nagpur.

... Applicant.

V/s.

1. The General Manager,
Defence Ordnance Factory,
Ambazari,
Nagpur.440 021.
2. The Director General,
Ordnance Factories,
East - 6, Dharmatal,
Calcutta.
3. The Secretary to the Government,
Ministry of Defence, South Block,
New Delhi.110 001.

Coram: Hon'ble Vice-Chairman, Shri B.C.Gadgil,
Hon'ble Member(A), Shri P.Srinivasan.

JUDGMENT:

(Per P.Srinivasan, Member(A))

Dated: 24.6.1988

In this application, the applicant who was working as Civil Motor Driver on probation in the Ordnance Factory at Ambazari is aggrieved by order dt. 4.11.1982 of the General Manager of the Ordnance Factory terminating his services. When his services were terminated he was on extended period of probation. Shri A.S.Bhagat for the applicant and Shri Ramesh Darda for the respondents have been heard.

2. The application is listed today to consider the request of the applicant for condonation of delay in filing the application. Shri Bhagat submitted that under the Limitation Act, a grievance could be brought before a Court within 3 years of the date ^{when} the cause of action arose. Under the Administrative Tribunals Act, a cause of action which arose within 3 years prior to the date on which this Tribunal was brought into existence could be agitated before this Tribunal. On 11.8.1981 the applicant was involved in an accident while driving the jeep belonging to the respondents. A criminal case was instituted against him by the Police, but he was acquitted of the criminal charge by order

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dt. 7.2.1985. His services were terminated because of this incident. When the Criminal Court acquitted him of the criminal charge the applicant acquired a right to challenge the order terminating his services, because the basis on which such an order was passed disappeared with the acquittal in the criminal proceedings. The Judgment of the Criminal Court was served on the applicant on 26.3.1985. According to Shri Bhagat, the period of limitation being 3 years, he could file the application against the order of termination of services within 3 years from the date the judgment in the Criminal Case was served on him i.e. before 25.3.1988. Shri Bhagat also contended that this Tribunal being a substitute for the High Court was not bound by any statutory limitation and where injustice is shown to have been committed, the application should not be dismissed on the ground of limitation. Even if it be held that there was a delay, Shri Bhagat submitted, it was because of the injury suffered by the applicant in the accident in which he was involved on 11.8.1981 and for this reason the delay should be condoned.

3. Shri Ramesh Darda learned counsel for the respondents, countered the contentions of Shri Bhagat and submitted that a specific limitation was prescribed for filing applications before this Tribunal in Section 21 of the Administrative Tribunals Act, 1985. The real cause of action in this application arose on 4.11.1982 when the applicant's services were terminated. The criminal case which was filed against the applicant does not alter the date of the cause of action in this case. In respect of every cause of action that arose within 3 years prior to the setting up of this Tribunal the limitation prescribed was one year from the date the cause

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of action arose or 6 months from the date of setting up of the Tribunal, whichever is later. In the present case the application should have been filed before 1.5.1986 but was actually filed only on 7.3.1988 i.e. nearly 2 years later. Even if one were to agree with Shri Bhagat that the date on which the judgment in the Criminal case was served on the applicant is the material date for calculating limitation, one year thereafter expired on 26.3.1986 while application was filed only on 7.3.1988, again nearly two years late. As regards the contention of the applicant that because of injury sustained in the accident which occurred on 11.8.1981, he was unable to file the application within time, Shri Darda produced the attendance register of the office which showed that the applicant was back on duty from January, 1982 itself. Moreover, the applicant had made a claim for compensation before the Labour Court Nagpur long before and if he could do that he could have filed this application in time. The excuse of injury as a justification for delay in submitting the application was therefore, not valid. Repelling the contention of Shri Bhagat that this Tribunal was not bound by limitation, Shri Darda referred to section 21 of the Administrative Tribunals Act, 1985 and contended that the limitation for filing applications prescribed therein cannot be overlooked by this Tribunal.

4. After careful consideration, we are of the view that the application is badly delayed and no reasonable cause had been adduced to justify the delay. The applicant was released from Hospital after the accident on 18.8.1981 as per copy of the discharge card attached to the application. He attended office from January, 1982 onwards and was in service till his services were terminated on 4.11.1982. He was also able to file an application with the Labour Court for compensation which also indicates that he was not incapacitated from filing the present

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application. The limitation of three years prescribed in the Limitation Act for Civil Suits has no relevance to the applications filed under the Administrative Tribunals Act, 1985. We agree with Shri Darda that we cannot overlook the limitation under section 21 of the Administrative Tribunals Act. Merely because this Tribunal is a substitute to the High Court in service matters it cannot ignore the provisions of the Administrative Tribunals Act relating to limitation. The judgment in the criminal case filed against the applicant is an altogether different matter and it cannot be relied upon to show that the cause of action in this case was postponed till the date of that judgment. It is also seen from the application that the applicant made a representation against the order imposing penalty on 19.4.1985 to which, he says there has been no reply. Under section 21 of the Administrative Tribunals Act he could have waited for a period of six months after he filed the representation was sent and then filed the application within one year thereafter, but he did not do even this. In view of this we are satisfied that this application is badly delayed and no reasonable cause has been shown to justify the delay.

5. We therefore, reject this application at the admission stage itself as barred by limitation. Parties to bear their own costs.



(B.C.GADGIL)
VICE- CHAIRMAN



(P. SRINIVASAN)
MEMBER(A).