(3)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT SITTINGS AT NAGPUR.

~~XXXXXXXXXXXXXXXXXX~~

NEW BOMBAY BENCH

O.A. Nos. 314 & 315 of 198 8

~~XXXXXXX~~

DATE OF DECISION 9.8.1988

1. Shri G.G.Damke, Applicant in O.A.No.314/88
2. Shri L. Gandhiraman
   ~~Applicant in O.A.315/88~~ Petitioner

Shri G.P.Hardas Advocate for the Petitioner(s)

Versus

1. Chairman, C.B.D.T., New Delhi
2. Commissioner of Income Tax,
   ~~Vidarbha, Aayakar Bhavan, Nagpur~~ Respondent

\- Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. L.H.A. Rego, Member(A)

The Hon'ble Mr. M.B. Mujumdar, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not?
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?

MGIPRRND—12 CAT/86—3-12-86—15,000

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT SITTINGS AT NAGPUR.

Original Applications Nos.314 & 315/1988

Shri G.G.Damke,
Plot No.139, Untkhana,
Nagpur. .. Applicant in O.A.No.314/88

V/s.

1. Chairman,
Central Board of Direct Taxes,
New Delhi.

2. Commissioner of Income-tax,
Vidarbha,
Aayakar Bhavan,
Nagpur. .. Respondents in O.A.No.314/88

Shri L. Gandhiraman,
Plot No.49,
A.G.Housing Colony,
Near RMS Colony,
Behind Police Line,
Takali,
Nagpur-440 013 .. Applicant in O.A.No.315/88

V/s.

1. Chairman,
Central Board of Direct Taxes,
New Delhi.

2. Commissioner of Income-tax,
Vidarbha,
Aayakar Bhavan,
Nagpur. .. Respondents in O.A.No.315/88

Coram: Hon'ble Member(A), Shri L.H.A.Rego,
Hon'ble Member(J), Shri M.B.Mujumdar.

Appearance:

Shri G.P.Hardas,
Advocate
for the applicants.

ORAL JUDGMENT: Dated: 9.8.1988

(Per: Shri M.B.Mujumdar, Member(J))

Heard Shri G.P.Hardas, Learned advocate for the applicants in both the cases.

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2. The applicants in these cases were promoted as Upper Division Clerks in 1969 in the Office of the Commissioner of Income Tax, Vidarbha/Marathwada, Nagpur. The Department had published a Seniority List as on 1.4.1977 against which a large number of representations were made. The Department considered the representations and published a revised Seniority List along with letter dtd. 16.11.1978. By the same letter objections were called to the Seniority List within a period of three months.

3. On 7.2.1979, in the revised Seniority List, the applicant Shri Damke's seniority was lowered from 112 to 158 and that of Shri Gandhiraman's from 66 to 132. Their representations thereon on 7.2.1979 were rejected on 26.9.1980. They further represented in the matter on 29.11.1980 and they were heard but their request was not granted. After waiting ~~about~~ more than six years, they again represented on 20th January, 1987. These representations were also rejected by the Department by its letter dated 12.8.1987.

4. Thereafter they filed the present application on 22.4.1988 under Section 19 of the Administrative Tribunal's Act, 1985, with almost the same prayer, which reads as follows:-

> " The order No.Estt/38/75 dated 16.11.1978 by the Commissioner of Income Tax, Vidarbha, Nagpur be quashed and declared nullity, the seniority of the applicant be restored at Serial No.112 and the applicant be declared entitled to promotion, confirmation and other benefits on the basis of original seniority at S.No.112"

Contd...3/-

5. It is clear from the foregoing that both the applicants had challenged the above Seniority List by their representations dated 7.2.1979 which were rejected on 26.9.1980. The reply shows that the seniority of the applicant was fixed from the date on which they qualified in the departmental examination for ministerial staff with due regard to their seniority in L.D.C.'s cadre. Thereafter the applicants submitted a fresh representation on 29.11.1980. However, according to the applicant they did not receive any written reply from the Department. Hence they submitted a final representation on 20.1.1987, which was rejected on 12.8.1987.

6. It is, therefore, apparent that the cause of action in this case arose on 26.9.1980 when the Department rejected their representations dated 7.2.1979. The Principal Bench of the Central Administrative Tribunal, has held in V.K.Mehra V/s. Secretary, Ministry of Information & Broadcasting (A.T.R.1986, C.A.T. 203) that the Administrative Tribunals Act 1985 does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1.11.1982. Consequently there is no question of condoning delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982. The limited power that is vested to condone the delay in filing the application within the period prescribed, is under Section 21 ibid provided the grievance is in respect of an order made within three years of the constitution

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of the Tribunal. This view is consistently adopted by the different Benches of this Tribunal.

7. Shri Hardas submitted that the applicants were making representations. The first representation was made on 26.9.1980 but thereafter their representations dated 20.1.1987 ~~is~~ were after a lull of more than six years. This lapse of time is inordinate. The only prayer made by the applicant in this case is for quashing and seting aside the order dated 16.11.1978 passed by the Commissioner of Income Tax, Vidarbha, Nagpur referred to earlier.

8. After taking into account all the pros and cons and after hearing Shri Hardas, Learned advocate for the applicant, we hold that the application is hopelessly time-barred and hence we reject both the applications under Section 19(3) of the Administrative Tribunals Act, 1985, at the stage of admission.

(M.B.Mujumdar)
Member(J)

(L.H.A.Rego) 22-8-88
Member(A)