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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 32/88

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DATE OF DECISION 21-9-93

Shri Raghvendra Nandram Khaparde Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

The General Manager, Telecommunication Maharashtra Circle, Bombay. Respondent

Shri P.M.Pradhan. Advocate for the Respondent(s)

CORAM:

 The Hon'ble Shri M.Y.Priolkar, Member (A)

The Hon'ble ~~XXXX~~ Smt. Lakshmi Swaminathan, Member (J)

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

} No.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 32/88

Shri Raghvendra Nandram Khaparde

... Applicant.

V/s.

The General Manager,
Telecommunication,
Maharashtra Circle
Bombay.

... Respondent.

CORM: Hon'ble Shri M.Y.Priolkar, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri D.V. Gangal, counsel
for the applicant.

Shri P.M.Pradhan, counsel
for the respondents.

JUDGEMENT

Dated: 21/9/93

(Per Smt. Lakshmi Swaminathan, Member (J))

The applicant, Shri Raghvendra Nandram Khaparde, has filed this application under Section 19 of the Administrative Tribunals Act 1985, on the ground that he was due for promotion as selection grade Junior Engineer in the Department of Telecommunication from 1.7.73, but the same was given ^{only} with effect from 27.1.82.

2. The applicant has challenged the order dated 29.9.86 passed by the General Manager, Telecommunication, Maharashtra Circle, Bombay, by which it was communicated to him that his representation dated 1.10.84 for considering selection grade Junior Engineer (SGJE) promotion with effect from 1.6.74 had been thoroughly examined and rejected. Learned counsel for the applicant submitted that the application is within the period of limitation prescribed under Section 21 of the Administrative Tribunals Act. Further, he has also alleged that since there was no charge sheet for criminal proceedings pending against

the applicant during the relevant period in 1973-1974, adoption of the sealed cover procedure by the D.P.C. at that time was erroneous.

3. The learned counsel for the respondents has taken the preliminary objections to the application on the grounds of limitation and jurisdiction under Sections 20 and 21 of the Administrative Tribunals Act. We find force in these arguments.

4. On a perusal of the records in the case, it is clear that the applicant has sent several representations from 1.9.75 to 24.2.86 regarding his promotion to SGJE which he claimed was due from 1.7.73. It appears that the applicant was actually promoted to SGJE only with effect from 27.1.82 and he has sought an order from the Tribunal that his case may be submitted to a Review D.P.C. for considering his case afresh for granting the benefit of SGJE with effect from 1.7.73. This application has been filed on 4.1.88.

5. The applicant has sought to rely upon the order dated 29.9.86 which relates to his representation dated 1.10.84 to bring the case within the period of limitation. Such repeated representations will not bring the cause of action within the provisions of Section 21 of the Administrative Tribunals Act. In the case of S.S. Rathore V/s. State of Madhya Pradesh (AIR 1990 10 SC) the Supreme Court has held :

— " We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months

period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle"—

6. It is seen from the facts in the case that the cause of action has arisen as early as 1.7.73. It is also apparent that, apart from sending several representations, the applicant has not taken any action within the period prescribed in Section 20 of the Administrative Tribunals Act. The Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1.11.82 i.e. three years immediately preceding the constitution of the Tribunal. (See V.K. Mehra V/s. Secretary, Ministry of Information and Broadcasting AIR 1986 CAT 203; Mangano Vs. Chief Security Officer and Anor. ATR 1986 CAT 247). Even if we take the time from the order dated 27.1.82 whereby he was promoted to the SGJE into consideration, this will also fall beyond the period of three years as given in Section 21(2) of the Act. There is also, no question of condonation of delay in filing this application, as this Tribunal has no jurisdiction to entertain the application ^{as} it is clearly barred by limitation.

7. In the above view, we do not think it necessary to express any opinion on the other submissions made by learned counsel for the applicant. The application is rejected. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

M.Y. Priolkar
(M.Y. Priolkar)
Member (A)