

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 397/86.

Bhagwan Damodar Raikar,
Head Clerk, Commercial Br.,
Refund Goods Section,
Sub-section (Coal), 3rd Floor,
New Administrative Building,
Churchgate,
Bombay - 400 020.

... Applicant

v/s

1. General Manager,
Western Railway,
Bombay - 400 020.
2. Chief Personnel Officer,
Western Railway,
Bombay - 400 020.

... Respondents

Coram: Hon'ble Member(A) J.G.Rajadhyaksha
Hon'ble Member(J) M.B.Mujumdar

Appearance:

1. Mr. S.Natarajan,
Advocate for the applicant.

ORAL JUDGMENT

:Date : 5-1-1987

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

The applicant who is working as Head Clerk in the Commercial Branch, Refund Goods Section, of the Respondents, has filed this application on 6th November, 1986 under Section 19 of the Administrative Tribunals Act, 1985.

2. The applicant has requested in para 7 of the application that he should be treated as Senior Clerk in the grade of Rs.130-560 from 15-7-65 onwards instead of as a Junior Clerk in the grade of Rs. 110-400, on the lines of two senior Typists mentioned in the application. It is clear from his prayer and also from the body of the application that the application is hopelessly time-barred.

3. Mr. Natarajan has tried to overcome the bar of limitation by relying on a letter of the Railway Board dtd. 4-10-1963 which ~~xxixim~~ according to him was not

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brought to the notice of the applicant at any time. But it is on record that the applicant has been ~~xx~~ making representations since 1965 and it does not appear reasonable or truthful that he was unaware of the letter dt. 4-10-1963. The second ground on which Mr. Natarajan wants us to admit the application by condoning delay, if necessary, is the fact that the applicant had approached Labour Enforcement Officer (Central Govt.) for redressal of his grievance. The letter of the Regional Labour Commissioner dt. 10th October, 1986 does show that the applicant had approached him and the Regional Labour Commissioner had advised the authorities to consider the matter and issue orders for conversion of the applicant from senior Typist to Senior Clerk in the same grade instead of Senior Typist to Junior Clerk(lower grade). But this ~~xx~~ advice, we are told, was not accepted by the respondents. The second ground will also not bring the applicant's case within limitation.

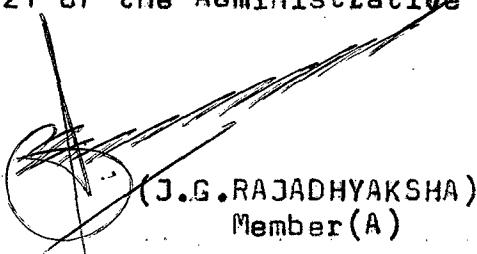
4. The applicant has given an application to amend the application. But even in that application there is nothing which would entitle us to admit the application by ignoring ^{the} inordinate delay and lapse?

5. We feel that by constituting this Tribunal only the forum has changed. Previously the aggrieved employees could approach the High Court and other Civil Courts for redressal of their grievances; but after the constitution of this Tribunal they have to come to this Tribunal alone. There is no change in the basic law of limitation as such; on the contrary, Section 21 of the Administrative Tribunals Act 1985 is somewhat more stringent on the point of limitation. It is not necessary to quote the section here, but we may refer to the judgment of the Principal Bench of the Central Administrative

Tribunal, New Delhi in V.K.Mehra V. Secretary, Ministry of Information, ATR 1986 CAT 203. It is emphatically laid down in the judgment that the Act does not vest any power of authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1-11-1982 i.e. more than 3 years prior to constitution of the Tribunal on 1-11-1985. It is pointed out that in such a case, there is no question of condoning the delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of the grievance arising prior to 1-11-82.

6. Mr. Natarajan challenged the above decision and according to him Section 3 of Section 21 gives wide powers to this Tribunal to condone the delay irrespective of the cause of action having arisen more than 3 years prior to the constitution of the Tribunal. Even assuming that there is some force in the submissions we do not find that there is any valid or legal ground for condoning the delay. The contention that it was costly to go to the High Court or it was not easy to go to the High Court assuming it to true, cannot be a legal ground for condoning the delay.

7. We, therefore, summarily reject the application under Section 19(3) read with 21 of the Administrative Tribunals Act, 1985.


(J.G.RAJADHYAKSHA)
Member (A)


(M.B.MUJUMDAR)
Member (J)