

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 574/89

Transfar Application No:

DATE OF DECISION: 15.9.1994

Shri Niranjana Sadaji Telang

Petitioner

Shri D.B.Walthare

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri R.P.Darda

Advocate for the Respondent(s)

CORAM :


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

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

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*


(R.RANGARAJAN)

MEMBER (A)


(M.S.DESHPANDE)

VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

Camp : NAGPUR

OA, NO. 574/89

Shri Niranjan Sadaji Telang

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri R.Rangarajan

Appearance

Shri D.B.Walthare
Advocate
for the Applicant

Shri R.P.Darda
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 15.9.1994

(PER: M.S.Deshpande, Vice Chairman)

By this application the applicant seeks a declaration that the applicant is entitled for confirmation w.e.f. 29.3.1965 with consequential benefits.

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2. The applicant/was employed as temporary clerk came to be confirmed originally on 1.3.1970 by the order dated 14.1.1971 at Annexure -8. By the order dated 8.1.1975 (Annexure-10) the date of confirmation was changed to 8.2.1971. Another order was passed on 11.4.1975 altering that date to 1.3.1972 (Annexure-11). The applicant made his first representation on 6.1.1979 and last representation in the year 1989. The respondents did not reply to any of these representations. The grievance of the applicant is that by postponing the dates of confirmation in this unusual manner, he was being deprived of his time bound promotion and consequential monetary benefits.

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3. The respondents contested the application on several grounds including the point of limitation. They ^{applicant's counsel} pointed out to us that by order dated 19.1.1990 the application was admitted and so the question of limitation cannot now be raised, That would not be a fair reading of the order because the order was that "this was a fit case for adjudication by this Tribunal and as such we admit the application subject to the point of limitation which may be raised by the respondents in their reply." The plea of bar of limitation has been raised by the respondents. It is, therefore, clear that we shall have to decide the question of limitation first before we go to the other questions raised by the applicant. We may also mention that the applicant has got his time bound promotion after filing of this application by taking the last date of confirmation as 1.3.1972.

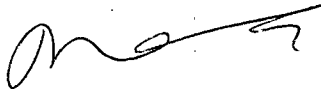
4. In the present case, the cause of action accrued on 6.1.1989 when the order was passed for alteration of the date of confirmation. The applicant had to approach the civil court within three years of the passing of that order which would be ^{the} a period of limitation under the ^{Indian} ~~Period of~~ Limitation Act, That he did not do. He waited and sent the first representation on 6.1.1979. If the remedy was barred prior to the ^{coming into force of the} Administrative Tribunals Act, it cannot be revived only because the Administrative Tribunals Act provided for a new period of limitation based on the making of representation. Section 21 of the Administrative Tribunals Act would not save limitation in the present case.

5. Shri Walthare, learned counsel for the applicant, however, relied on the observation made in the judgement of Division Bench of this ^{Tribunal} Bench in

1993 (25) Administrative Tribunals Cases p. 552. There cannot be any dispute about the proposition referred to in that case on the question of limitation. That case, however, would not assist the

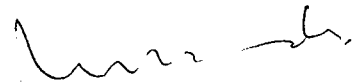
applicant in reviving the cause of action. The remedy on the basis of which would become barred by time, by only making a representation after the Administrative Tribunals Act came into force.

6. In the result, we find that the present application is barred by time, it is dismissed. No order as to costs.



(R. RANGARAJAN)

MEMBER (A)



(M. S. DESHPANDE)

VICE CHAIRMAN

mrj.