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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH : CAMP : NAGPUR

O.A. 358 of 1989

Present : Hon'ble Mr. A.P.Bhattacharya, Judicial Member

Hon'ble Mr. P.S.Chaudhuri, Administrative Member

M. V. GOPALKRISHNA

VS

UNION OF INDIA & ORS

For the applicant : Mr. Y.V.Yawalkar, advocate

For the respondents : None


Heard on : 18.1.90 : Order on : 19.1.90

O R D E R

A.P.Bhattacharya, J.M. :

This application under section 19 of the Administrative Tribunals Act, 1985, has been filed by Shri M.V. Gopalkrishna against the Union of India, represented by the Chairman, Railway Board and four others.

2. On 18.5.64 the applicant was appointed as a Stenographer under the South Eastern Railway. Subsequently he was promoted as a Senior Stenographer. By an order issued on 10.4.80 he went on deputation to the Indian Railway Construction Company (IRCON). Although the normal period of deputation was for two years that was extended in his case. He ^{was released to} joined the said Company on 30.9.80. The period of deputation was extended upto 30.9.83. He opted to retire with effect from 1.9.84. In the meantime, the Govt. of India announced some additional pensionary benefits with effect from 1.4.85. By ^a representation the applicant made a prayer through the Indian Railway Construction Company to retire him from 1.5.85 instead of 1.9.84. His representation was duly recommended by the IRCON authorities. By his letter dt.

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7.11.85, the Chief Personnel Officer, South Eastern Railway, ^{in former} him ~~that he would be deemed to have retired from S.E. Rly w.e.f. 1.10.83 and~~ regretted to inform that his prayer could not be acceded to. ~~permanently absorbed in the IRCON w.e.f. the same date~~

The applicant made representations subsequent thereto, but to no effect. In filing the application the applicant has prayed for setting aside the decision conveyed to him by the Chief Personnel Officer, S.E. Rly, and quashing the office order issued on 19.11.85 and permitting him to draw pensionary benefits as per rules which were in vogue on 7.11.85.

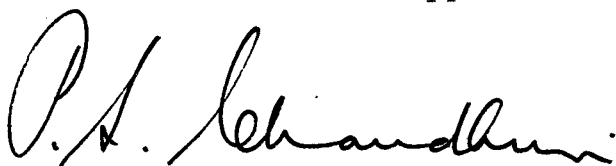
3. Considering the facts and circumstances of the case and the materials on record, we are of opinion that the claim of the applicant cannot be entertained as it is hopelessly barred by limitation. In this connection, first we refer to Annexure-A5 to the application. This letter was issued by the Deputy Chief Personnel Officer (Headquarters) on 7.11.85 to the Divisional Railway Manager, S.E. Rly, Nagpur to the effect that the Chief Personnel Officer had given his approval to the resignation tendered by the applicant with effect from 1.10.83, for his permanent absorption in the IRCON. Next comes Annexure-A6. This is ~~a~~ copy of the order passed by the IRCON authorities on 19.11.85 from which we get that the applicant on deputation to IRCON and on having been deemed to have retired from the South Eastern Railway with effect from 1.10.83 had been permanently absorbed in the IRCON with effect from the said date. In our opinion, the applicant should have come within the time prescribed in Section 21 of the Administrative Tribunals Act, 1985 counting from 19.11.85. The applicant sat over the matter and submitted his first representation thereafter on 20.3.87 (vide Annexure-A7). The ground shown by him for condonation of delay is that as he had been to Algeria from 21.5.84 to 3.1.89, he could not file this application before this Tribunal earlier than 23.5.89. We are not prepared to accept this explanation as sufficient. In Annexure-A7 the applicant had given his address as in Algeria. He must have come to India on ~~many~~ ^{some} ~~times~~

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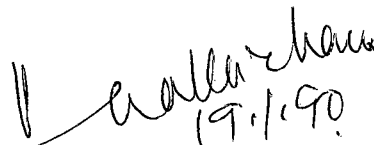
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occasions from 19.11.85 to the submission of the representation (Annexure-A7) on 20.3.87 and thereafter before the filing of this case. It is not understood as to why it was not possible for him to pursue his claim even from Algeria. After coming to India after 3.1.89 as it is stated by him he started pursuing the old claim. It is his contention that in view of the judgement passed by the Principal Bench of the Central Administrative Tribunal in Original Application No. 171 of 1986 such prayer of his should be granted. We note from Annexure-A9 to the application, which is ~~the~~ copy of the said judgement, that the applicant had not filed the instant application before this Tribunal even within a reasonable time from the passing of that judgement. Considering all, we are of opinion that the applicant's claim has become stale. The grounds shown by him for condonation of delay are far from satisfactory. Such being the position, we hold that his claim is barred by limitation. So, we have no other alternative than to hold that this application is not at all fit for adjudication by this Tribunal. Accordingly, we dismiss this application summarily along with M.P. 614 of '89.



(P.S. CHAUDHURI)
ADMINISTRATIVE MEMBER
19.1.90


19.1.90

(A.P. BHATTACHARYA)
JUDICIAL MEMBER
19.1.90