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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT Sittings AT NAGPUR.

XXXXXX XXX XXX

O.A. No. 40 of 1989
 TXAXXNXX

DATE OF DECISION 15.3.1989

Shri V.R. Masram Petitioner

Shri P.V. Kaore Advocate for the Petitioner(s)

Versus

General Manager,
 Ordnance Factory,
 Ambajhari, Nagpur. Respondent

Mr. Ramesh Darda Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. M.Y. Priolkar, 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? No
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? No

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
 NEW BOMBAY BENCH, NEW BOMBAY
CAMP AT NAGPUR.

Original Application No. 40/89

Shri V.R. Masram,
 Ajni Chowk,
 Wardha Road, Near Tadi Shop,
 Nagpur. .. Applicant

V/s.

The General Manager,
 Ordnance Factory,
 Ambajhari,
 Nagpur: .. Respondent.

Coram: Hon'ble Member(J), Shri M.B. Mujumdar,
 Hon'ble Member(A), Shri M.Y. Priolkar.

ORAL JUDGMENT:- Dated: 15.3.1989
 Per: Shri M.B. Mujumdar, Member(J)

Heard Mr.P.V.Kaore, learned advocate for the applicant and Mr.Ramesh Darda, learned advocate for the respondent today. He is given the copies of the application.

2. The applicant was appointed as Labourer 'B' in the Ordnance Factory at Ambajhari, Nagpur in 1972. On 29.6.1980 he was charge sheeted for the offence of theft of some aluminium strips from the factory. Before that, by an order dated 17.6.1980 he was placed under suspension. A regular departmental inquiry was held against him and by order dated 30.3.1981 penalty of dismissal from service w.e.f. the same date was imposed on him. By the same order it was directed that the period of suspension would not be treated as on duty and would not count for any purpose. The applicant had preferred an appeal dated 11.5.1981 against that order but it was dismissed by the Appellate Authority on 21.11.1981. The order of the Appellate Authority

was sent to the applicant along with a letter dated 5.1.1982 through an envelope. But that envelope was received back with a postal remark, "Addressee expired, returned to sender". After waiting for some time, the applicant sent letter dated 17.4.1982 requesting the authorities to inform him the result of appeal. Hence finding that the postal endorsement was incorrect the authorities communicated the result of the appeal to the applicant by their letter dated 6.5.1982.

3. The applicant did not take any steps thereafter for about 3 years. However, on 16.4.1985 he sent an application to the Conciliation Officer, Labour Commissioner (Central) Nagpur for effecting conciliation between him and the General Manager of the Factory and for allowing him to resume his duties. According to the applicant the Conciliation Officer has not taken any steps thereafter.

4. It is clear from the above facts that the cause of action for this application arose when the applicant received the letter dated 6.5.1982 from the Appellate Authority. We have held in a number of cases that this Tribunal will have no jurisdiction to entertain an application in respect of a cause of action which had arisen more than 3 years prior to the Constitution of this Tribunal i.e. prior to 1.11.1982. We have also held that there is no question of condonation of delay in such cases (see V.K.Mehra V. Union of India, ATR 1986 (1) CAT 203).

5. But Mr.Kaore, learned advocate for the applicant relied on the application of the applicant dated 16.4.1985 to the Conciliation Officer for redressal of his grievance. Assuming that the Conciliation Officer

has not taken steps, we do not think that that application will save this application from the clutches of limitation. In the first place that application was not made immediately after the appeal preferred by the applicant was disposed of. It was made about 3 years after the appeal was disposed of. Moreover, the applicant should have approached some Court within a reasonable time after he had submitted his application to the Conciliation Officer. On the contrary, he has filed the present application about 3 years and 9 months after his application to the Conciliation Officer. We do not think that such an application should be admitted.

6. For all the above reasons, we reject this application summarily, with no order as to costs.

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

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