(5)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 628/89 & 819/89
T.A. No. 198

DATE OF DECISION 15-1-1991

Shri Navinchandra Vasantrao Kir. — Petitioner

Ms. S.S. Joshi — Advocate for the Petitioner(s)

Versus

Union of India & two others — Respondent

Mr. P.M.Pradhan — Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.S.CHAUDHURI, MEMBER (A)

The Hon'ble Mr. J.P.SHARMA, 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 ?
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

(P.S. CHAUDHURI.)
MEMBER (A)

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

OA No. 628/89

Shri Navinchandra Vasantrao Kir,
19, Kumbhar Wada, Dadar,
Bombay - 400 028. ... Applicant.

V/s.

Union of India & two others. ... Respondents.

OA No. 819/89

Shri Romeo Mayarello
194, New Tenements,
Block 'B', Room No.16,
Sakharam Lanjekar Marg.,
Seweri, Bombay- 400 015, & 15 Others. ... Applicants.

V/s.

Union of India & three others. ... Respondents.

CORAM: Hon'ble Member(A) Shri P.S. CHAUDHURI.
Hon'ble Member(J) Shri J.P. SHARMA.

Appearances:

Applicant by Ms.S.S.Joshi.
Respondents by Mr.P.M.Pradhan.

ORAL JUDGEMENT Dated: 15.1.1991.
(PER : P.S. CHAUDHURI, MEMBER(A)

These two applications filed under Section 19 of the Administrative Tribunal's Act, 1985 can be conveniently disposed of by a common order as both the applications involve a common question of law.

2. In both the cases the applicants are employees of the Telecom Factory, Deonar, Bombay in which they were appointed as Shop Clerks/Sircars and in which they were subsequently redesignated as Time-Scale Clerks in pursuance of the order of the Bombay High Court of 3.7.1985. In that order of the Bombay High Court, it was directed that such employees would be given benefit of conversion on regular establishment with effect from the date of their initial recruitment as Shop Clerks/Sircars. But it was mentioned that the petitioners would not be entitled to arrears of pay and allowance prior to June 18, 1982, the date from which advantage of pay and allowance was conferred on two similar situated employees, viz. Kamerkar and Gavde.

3. In these applications the applicants had originally prayed for "difference in pay for the work on parity with the pay paid to the time scale clerks of regular establishment of the respondents with effect from the date of appointment and due promotions of the applicants", and other connected and consequential reliefs. Thereafter the applicants have moved M.Ps. No. 858 & 870/90 seeking to amend the prayer clause to include payment for additional hours of work and leave. As we have not yet admitted these two applications, we have considered the amendment application along with the main application.

4. We have gone through the record and have heard Ms. S.S. Joshi Patil, learned counsel for the applicants and Mr. P.M.Pradhan, learned counsel for the respondents.

5. Ms. Joshi Patil fairly submitted that the case for payment for additional work and overtime arose in or about November, 1970 and ceased to accumulate on the retirement of the applicants on superannuation on various dates. Thus the point with which we are concerned at the stage of admission is whether these applications come within the provisions of Section 21 of the Administrative Tribunal's Act, 1985.

6. OA 628/89 was filed on 15.9.1989 and OA 819/89 was filed on 27.10.1989. In other words, both the applications were filed more than one year after the date when the cause of action arose. In any case, we are precluded from looking into a grievance that occured prior to 1.11.1982- see V.K. Mehra v. Secretary, Information & Broadcasting (ATR 1986 CAT 203). Ms. Joshi Patil then contended that the limitation should start from the order of the High Court viz. 3.7.1985. Even this date does not help her as the applications are filed more than a year thereafter. Her 3rd point on limitation was that the order was implemented in 1986/1987 ; obviously, even this is of no avail to her.

She then went on to submit that the applicant's had submitted an appeal in or about 1986/1987 but as they had not received any final orders on it, limitation had not begun to run. This was disputed by Mr. Pradhan who submitted that the respondents had no record of any such appeal and, in any case, no copy thereof had been filed along with the application. However, even assuming for the moment that such an appeal had been submitted, it would not have helped the applicants as under Section 21 of the Administrative Tribunals Act, 1985 they were required to act within a period of 18 months thereafter. Ms. Joshi Patil's final submission was that limitation should reckon from the date on which the applicants had withdrawn their writ petition in the Supreme Court with liberty to move the High Court as the case may be. We are afraid we are unable to go along with this submission. The permission granted by the Supreme Court to withdraw the application with liberty to move a fresh application before this Tribunal does not constitute a fresh starting point for limitation.

7. Against this background, we are satisfied that the applications are stale and hopelessly belated. No cause for not making the application within the permitted period has been made out in the pleadings and neither was any such cause put forward before us during the course of arguments today. In this view of the matter, we are satisfied that both these applications are barred by limitation under Section 21 of the Administrative Tribunal's Act, 1985.

5. The two applications are, accordingly, summarily rejected under Section 19(3) of the Administrative Tribunal's Act, 1985. In the circumstances of the case, there will be no order as to costs.

(J.P.SHARMA)
MEMBER (J)

(P.S.CHAUDHURI.)
MEMBER (A)