

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:224.2001

THURSDAY the 28th day of NOVEMBER 2002

CORAM : Hon'ble Shri B.N. Bahadur. Member (A)

Hon'ble Shri S.L. Jain. Member (J)

S. Ganpathy Raman  
Residing at B-170,  
Building No.23, Kendriya Vihar,  
Sector 38, Nerul, Navi Mumbai. ....Applicant.

By Advocate Shri S.S. Karkera

v/s

1. Secretary,  
Department of Atomic Energy  
Anushakti Bhavan,  
Chhatrapati Shivaji Maharaj  
Marg. Mumbai.
2. Additional Secretary  
Department of Atomic Energy  
Anushakti Bhavan,  
Chhatrapati Shivaji Maharaj  
Marg. Mumbai.
3. Director,  
Bhabha Atomic Research Centre,  
Trombay, Mumbai.
4. Chief Executive  
Heavy Water Board,  
Vikram Sarabhai Bhavan,  
Trombay, Mumbai.
5. General Manager  
Heavy Water Plant,  
Manuguru, Ashwapuram,  
District Khammam,  
Andhra Pradesh. ....Respondents.

By Advocate Shri R.K. Shetty.

ORDER (ORAL)

{Per B.N. Bahadur, Member (A)}

The applicant in this case has come up to the Tribunal seeking the relief of refixation of pay with effect from 11.9.1963. Certain grounds are taken for the purpose. The

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*B.N.B.*

matter was argued on behalf of the Applicant by Shri S.S. Karkera and for Respondents by Shri R.R. Shetty, yesterday and today.

2. At the outset, the learned counsel for the Respondents took the objection with regard to jurisdiction of the Tribunal in view of the fact that the relief sought with effect from 1963. It was argued that the Tribunal lacks jurisdiction to hear this case in terms of Section 21 of the Administrative Tribunals Act 1985. Since this objection was taken at the outset by Shri Shetty, he was given opportunity to argue the point regarding jurisdiction first to enable Shri Karkera to meet the arguments on the aspect of jurisdiction. Shri Shetty stated that the grievances relates to the period prior to November 1982 and cannot be agitated before this Tribunal. He sought to draw our attention to the fact that the applicant had indeed taken up his grievance with the concerned officer/s in the department and that replies to his representation/s had been provided on more than one occasion. He brought to our notice the letters dated 17.8.1974 (Page 51) and letter dated 26.4.1977 (Page 60). He further stated that repeated representation cannot help him to take a stand that the cause of action arose only with the disposal of his case vide order dated 22.12.1999. It was argued that by impugning this order he could not be saved from the aspect of limitation which, in turn, hits the jurisdiction of this Tribunal.

3. Shri Karkera argued the case before us today and made the point that the cause of action arose from the impugned order which is made by an Additional Secretary in the Department of

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*b/s*

Atomic Energy by a speaking order. He went into the aspects on merits to make the point that this was a case of pay fixation and being a case of pay fixation, his grievance was continuing in nature and hence there was no bar of limitation. He has relied upon the well known Gupta V/s Union of India (AIR 1996 Supreme Court 669).

4. After considering the papers in the case and the case law cited and the arguments made on both sides, we are not convinced that this Tribunal has jurisdiction to hear and decide the case. The applicant has been agitating his grievance to the authorities concerned right from 1994 as seen from the papers on record. The reply on page 51 is very relevant. This is a reply with reference to the representation of applicant dated 14.8.1974 and reply seen thereafter by Establishment Officer. Again the letter dated 26.4.1977 (page 60) also makes it clear that the department has replied to the representation of the applicant dated 2.2.1977 and earlier letter dated 28.9.1976 stating that question of refixation of pay "does not arise".

5. Now it is well settled principle of law by Hon'ble Apex Court that repeated representations do not offer any escape from law of limitation or from the infirmity of delay and laches. Thus the cause of action cannot be stated to arise from the order of Additional Secretary (impugned order of 22nd December 1999).

6. The case of M.R. Gupta has also been considered. It is argued that the grievance regarding fixation of pay constitutes a continuing cause of action. The ratio of M.R. Gupta's case

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however would not be construed to provide liberty to the applicant to go on applying from time to time to various authorities. It does not mean that it contradicts the basic point made in S.S. Rathore V/s State of Madhya Pradesh (990 ATR 10 SC). If this were so then representation after representation can be made over say long years and yet it would be open to any applicant to comeup with OA before yet it would be open to any applicant to come up with OA before Tribunal. Such is not intention of the Act.

7. Another point taken by Shri Karkera was that the representation made by applicant was not rejected. We have two replies cited namely dated 17.8.1974 and 26.4.1977. It is clearly a case of rejection in the former. It is clearly stated that it is not possible to re-fix the pay. In the latter it is stated that question of re-fixation "does not arise". Hence Shri Karkera's Argument does not stand.

8. In view of the discussions made above, we are convinced that this is case where the Tribunal has no jurisdiction to hear the matter. The OA is therefore dismissed in view of lack of jurisdiction. No costs.

J.L.Jain  
(S.L.Jain)  
Member (J)

B.N.Bahadur  
(B.N. Bahadur)  
Member (A)

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