

In the Central Administrative Tribunal
Mumbai Bench

Review Petition No.80/2003)
(OA No.345/2001)

Coram : Hon'ble Mr.S. Biswas, Member(A)
Hon'ble Mr.Muzaffar Hussain, Member(J)

Shri R.R. Chauhan

-Vs-

Union Territory of Daman & Diu

For the applicant : Mr.S.R.Atre, Counsel

For the respondents : Mr.R.R. Shetty, Counsel
(were present at the time of hearing of the OA)

Date of Order :

ORDER (by circulation)

30.12.03.

Mr.S.Biswas, Member(A)

This Review Application has been filed by the applicant seeking review of the order dated 24-10-03 disposing of the said OA.

2. In the OA, the claim of the applicant was for a direction to the respondents to give him promotion to the post of Gujarati Teacher Gr.I w.e.f. 1-8-81 and further promotion to the post of High School Head Master w.e.f. 1987 or 1989 with attendant benefits. The applicant was originally appointed as Primary School Teacher under the Government of Goa, Daman and Diu on 16-6-66 and was promoted to the post of Assistant Teacher in February, 1974 and finally promoted as Middle School Head Master on 11-7-86. His case was that in 1981 there was a vacancy of Gujarati Teacher Gr.I in the Government High School, Diu. He was asked to perform the said duty as he was the only qualified candidate for the same. Thereafter also his such appointment was continued. He made several representations for grant of pay of the post of Gujarati Teacher Gr.I, but that was not acceded to. Ultimately, in 1999 his representation was replied, rejecting his prayer. Hence he filed the OA claiming the aforesaid benefits.

3. The OA was dismissed mainly on the ground of limitation and also on the ground that he himself had volunteered for the post.

4. In the R.A. the applicant has relied on a decision of the Hon'ble Supreme Court in the case of **Secretary-Cum-Chief Engineer, Chandigarh V. Hari Om Sharma and Others** (1998 SCC (L&S) 1273) and has contended that Government as a model employer cannot take service from any person with the aforesaid stipulation i.e. without payment in the scale attached to the post. His case is that, since he had worked, he should have been paid salary for the post. He has also submitted that as his representation was replied in the year 1999 and thereafter he made further representations, thus there cannot be any question of limitation.

5. On going through the averments made in the RA, as also the averments made in the OA, and in the reply, we find that the respondents had taken the point that since the applicant was engaged as Gujarati Teacher in the year 1981 on his own option that he would not claim any salary for the post, the Issue cannot be reopened after more than 20 years. It is also the case of the respondents that in 1999 the reply was given to the applicant in respect of his prayer for promotion as High School Head Master and not in respect of his pay and allowances from 1981. Obviously, the claim of the applicant is barred by limitation under Section 21 of the A.T. Act, as the cause of action arose to the applicant prior to 1-11-82. Moreover, there was no separate application for condonation of delay.

6. Accordingly, we find no error apparent on the face of the record or on the face of the order under review. The grounds stated in the RA do not come within the purview of Order

47, Rule I of CPC and hence we do not find any merit in this RA and accordingly it is dismissed by circulation. No costs.

S. B. ...

Member(A)

I agree

[Signature] 20/11/13

Member(J)