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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CAMP : NAGPUR

O.A. No. 112/90
~~XXXXXX~~

198

DATE OF DECISION 26.3.1990

Shri E.C.Shendre Petitioner

Shri M.R.Borkar Advocate for the Petitioner(s)

Versus

Chief General Manager, Mah.Telecom Respondents
Circle, Bombay & another.

Shri Ramesh Darda 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 ? } No
4. Whether it needs to be circulated to other Benches of the Tribunal ? }

(B)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

CAMP : NAGPUR

DA.NO. 112/90

Shri E.C.Shendre

... Applicant

vs.

Chief General Manager,
Mah. Telecom Circle, Bombay.
and another.

... Respondents

CORAM: Hon'ble Member (A) Shri P.S.Chaudhuri
Hon'ble Member (J) Shri J.P.Sharma

Appearances :

Mr. M.R.Borkar
Advocate
for the Applicant

Mr. Ramesh Darda
Advocate
for the Respondents

ORAL JUDGMENT

DATED : 26.3.1990

(PER: P.S.Chaudhuri, Member (A))

This application under Section 19 of the Administrative Tribunals Act, 1985 was filed on 15.1.1990 with an application for condonation of delay.

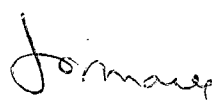
2. The grievance relates to failure to promote the applicant to the post of Higher Selection Grade Technician in orders issued on 27.5.1975, 3.1.1976 and 27.1.1977. Being aggrieved at this, the applicant made a spate of representations in 1976, 1977, 1978, 1980 and 1981. He eventually submitted a legal notice on 29.5.1987 which was answered on 26.6.1987.

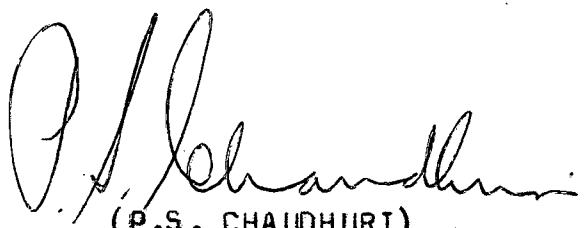
3. We have heard Mr. M.R.Borkar, learned advocate for the applicant and Mr. Ramesh Darda, learned advocate for the respondents. Mr. Darda also files his written statement for opposing admission and application for condonation of delay and gives a copy thereof to Mr. Borkar. After hearing both

sides and after going through the papers, we are satisfied that this is a hopelessly belated and stale case which deserves to be rejected in limine.

4. The applicant's grievances arose in the years 1975, 1976 and 1977. In *V.K.Mehra v. The Secretary, Ministry of Information & Broadcasting, New Delhi* - ATR 1986 CAT 203 - it has been held that "the question is not at all one of condoning the delay in filing the petition. It is a question of the Tribunal having jurisdiction to entertain a petition in respect of grievance arising prior to 1.11.1982". Mr. Borkar sought to get over this by citing the case of *Ajay Shankar v. Union of India & Ors.* - (1989 - 9 ATC 682). It was his contention that the reply to the legal notice that was given on 26.6.1987 revived the old claim and gave rise to a fresh cause of action. We do not see how this can help him in view of a decision of a 7 judge Bench of the Supreme Court in *S.S.Rathore v. State of Madhya Pradesh* - AIR 1990 SC 10. In this it has been held that "repeated unsuccessful representations not provided by law are not governed by this principle". It has also been held that "submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation".

5. In this view of the matter, we are satisfied that the application is hopelessly belated and raises a stale claim. We accordingly reject the application in limine in terms of Section 19 (3) of the Administrative Tribunals Act, 1985. M.P.No. N-1/90 for condonation of delay is also rejected. In the circumstances of the case, there will be no order as to costs.


(J.P. SHARMA)
MEMBER (J)


(P.S. CHAUDHURI)
MEMBER (A)