

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CIRCUIT SITTING AT NAGPUR

O.A. No. 295/90

198

T.A. No.

DATE OF DECISION 9.10.90R.D. Wankhede

Petitioner

Mr. J. L. Bhoot

Advocate for the Petitioner(s)

Versus

Union of India and others

Respondent

Mr. Ramesh Darda

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P. S. Chaudhuri, Member(A)

The Hon'ble Mr. S. K. Jain, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
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 ?

Yes

No

P. S. Chaudhuri
 (P. S. CHAUDHURI)
 M (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.295/90

R.D.Wankhede,
Qtr.No.34,
AG Type of Estate,
C/o.Jawhar Nagar,
Bhandara.

.. Applicant

vs.

1. Union of India,
through its
Secretary,
Ministry of Defence,
New Delhi.
2. Chairman,
Director General,
Ordnance Factory Board,
Calcutta.
3. General Manager,
Ordnance Factory,
Chandrapur.

.. Respondents

Coram: Hon'ble Member(A)Shri P.S.Chaudhuri

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

Appearances:

1. Mr.J.L.Bhoot
Advocate for the
Applicant.
2. Mr.Ramesh Darda
Advocate for the
respondents.

ORAL JUDGMENT:
(Per P.S.Chaudhuri, Member(J))

Date: 9-10-1990

This application under Section 19
of the Administrative Tribunals Act,1985(for short,
the Act) was filed on 30-3-1990. In it the applicant
who is the Headmaster of the Ordnance Factory
Primary School, Chandrapur, is challenging the
order dtd. 30-9-1985 by which the penalty of
reduction of pay by one stage for a period of
one year without cumulative effect has been imposed
on him. The applicant has also filed M.P.723/90
dt. 9-8-1990 seeking condonation of delay.

2. We have heard Mr. J. L. Bhoot, learned advocate for the applicant and Mr. Ramesh Darda, learned advocate, for the respondents.

3. After going through the record and hearing the learned advocates for both the sides we are satisfied that this application is barred by limitation under Section 21 of the Act.

4. The applicant submitted an appeal addressed to the Secretary, Ministry of Defence Production against the impugned order on 11-11-85. This appeal was rejected on 2-1-89. Thereafter the applicant submitted a further appeal dtd. 15-4-89, to the Secretary, Ministry of Defence Production. By order dtd. 23-8-89 he was informed that this review appeal dtd. 15-4-89 could not be considered by the Secretary, Ministry of Defence Production as he had already considered the earlier appeal. He was also informed that he could submit his review appeal/petition if he so desired to the President of India. The applicant did not, however, submit any review application but approached this Tribunal ~~xxx~~ only on 30-3-90, i.e. more than one year after the impugned order dtd. 2-1-89.

5. Mr. Bhoot tried to contend that the limitation in this case should run from 23.8.89 and not from 2-1-89 because the applicant was under

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the mistaken belief that a review appeal did lie as a permissible and required statutory remedy and was pursuing that line of redressal. We see no merit in this submission. If that was the line of redressal that the applicant was pursuing there is no reason why he should not have submitted his review appeal to the President as advised in the order dtd. 23-8-89. But he did not do so. We are satisfied that the impugned order is the order dtd. 2-1-89 rejecting his statutory appeal. We are not satisfied that there are any reasonable grounds for condoning the delay in approaching the Tribunal. We are, therefore, of the view that this application is barred by limitation.

6. We accordingly summarily reject this application under Section 19(3) of the Act. Misc. Petition No.723/90 is also rejected. In the circumstance of the case there will be no order as to costs.


(S.K.JAIN) ^{Am} 9-10-90
Member (J)


(P.S.CHAUDHURI)
Member (A)

RP from NCP.

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Submitted to the Hon'ble Vice Chairman:

Sub: Constitution of Bench to hear the
Review Petition No. 6/91 In
OA/TA/St. No. 295/90

Review Petition No. 6/91 has been filed by
the Applicant/s, Respondent/s in OA/TA/St. No. 295/90 against
the order/Judgment dtd. 9/10/90 which was delivered by the
Division Bench/Single Bench consisting of the

Hon'ble M(A), Shri P. S. Chaudhuri

u M(J), Shri S. K. Jain.

Per Hon'ble M(A), Shri P. S. Chaudhuri.

As one of the Member of the Bench viz the
Hon'ble M(A), Shri P. S. Chaudhuri

who has to hear this case has retired.

As per 1(A) of the notification
No. 13/19/91-JA dtd. 18/2/92 from the Hon'ble Chairman
Justice Shri V.S. Malimath the Review Petition No. 6/91 is put
up for Constitution of Bench by your Lordship. The RP is delayed
in submission because the direction was not received

Date: 6-8-92

Deputy Registrar

paper 6/6

The following Bench is constituted to hear the
Review Petition No. 6/91 in OA/TA. 295/90

List before D.B. at Nagpur on 17/9/92

Date: 6/8/92

Hey
Vice Chairman

objection: Judgments are not supplied with RP.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

Review Petition No.6/91
in
O.A.295/90

R.D.Wankhede,
Qtr.No.34,
AG Type of Estate,
C/o.Jawhar Nagar,
Bhandara.

.. Review
Petitioner

versus

1. Union of India
Ministry of Defence,
New Delhi
through
Secretary.

2. Chairman,
Director General,
Ordnance Factories Board,
Calcutta.

3. General Manager,
Ordnance Factory,
Chandrapur.

.. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.J.L.Bhoot
Advocate for the
Review Petitioner.
2. Mr.Ramesh Darda
Counsel for the
Respondents.

TRIBUNAL'S ORDER: Date: 17-9-1992
(Per S.K.Dhaon, Vice-Chairman)

This is an application seeking
review of order dt. 9th October, 1990 passed
by this Tribunal in O.A.295/90. RECORDED

2. The Tribunal took the view
that the cause of action for presenting
the application before the Tribunal by the
applicant arose on 2nd January, 1989 when his
appeal was rejected. Admittedly the appli-
cation was presented more than one year
after 2nd January, 1989. The Tribunal refused

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to take into account the mistaken appeal addressed by the applicant on 15.4.1989 to the Secretary, Ministry of Defence Production. The Tribunal refused to exercise the discretion of extending the period of limitation or to put in other words it refused to condone the delay. No ground exists for reviewing the order of the Tribunal. There is no error much less an error apparent on the face of the record.

3. Shri Darda who appears on behalf of the respondents has been heard in opposition of this application.

4. The Review Petition is rejected.


(M.Y.PRIOLKAR)
Member (A)


(S.K. DHAON)
Vice-Chairman

MD