

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 462/91

Transfer Application No:

DATE OF DECISION: 12.10.1994

R.S.Shinde

Petitioner

Shri M.A.Mahalle.

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri P.M.Pradhan.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri M.R.Kolhatkar, Member(A).

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(M.S.DESHPANDE)
VICE-CHAIRMAN

(11)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.462/91.

R.S.Shinde.

..... Applicant.

V/s.

Union of India & Ors.

..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances:-

Applicant by Shri M.A.Mahalle.
Respondents by Shri P.M.Pradhan.

Oral Judgment :-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 12.10.1994

The applicant has approached the Tribunal by a fresh application after dismissal of his earlier application (OA No.361/90) on 19.7.1990. By that application, the applicant had asked for certain reliefs with regard to the date on which he should have been deemed to have passed qualifying examination to the post of I.T.O. Class.II from the post of Inspector. The Tribunal found that the applicant's prayer was first rejected by the department on 5.12.1983 and then by the Director of Inspection, New Delhi on 21.12.1984. He made a representation on 4.3.1987 contending that the rejection was not by a reasoned order and this was addressed to the Chairman, Central Board of Direct Taxes, New Delhi. Another representation was made on 26.5.1988 and lastly a representation was sent on 15.2.1990. The Tribunal found that the cause of action had occurred much earlier when the applicant got his final reply in 1984 and he should have approached the Tribunal within 18 months from the date of rejection. The Tribunal also held that the grounds given in the application for condonation of delay were not sufficient

or acceptable and dismissed the application for condonation of delay while dismissing the OA summarily.

2. Shri Mahalle, the learned counsel for the applicant contends that the effect of the summary dismissal which in fact could be regarded as an order not admitting the petition would not have the effect of abating the departmental remedies which were available to him and therefore, since the representation dt. 15.2.1990 came to be decided on 30.11.1990 and the present OA came to be filed on 2.8.1991, it would be within time. We have given our anxious consideration to the contentions of Shri Mahalle. It is true that the question of limitation was alive to the minds of the learned Members of the Tribunal when the case came up before them on 9.3.1993 and they granted time to the learned counsel for producing the case law on the point of limitation. Shri Mahalle has drawn our attention to some Supreme Court decisions but we do not think that those decisions could have any application in the present case. The applicant approached the Tribunal earlier and it was then held that that application was barred by time. At that time also the representation dt. 15.2.1990 was pending and merely because it came to be decided later, it would not follow that the applicant got a fresh period of limitation. The basis for rejection was that the earliest representation gave the cause of action and since the application was not made within 18 months of that representation, the earlier OA was barred by time. Since the claim came to be dismissed on the ground of limitation it will not be open to us in a fresh application filed by the applicant to allow him to re-agitate the same question of limitation. The SLP which the applicant had filed

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also came to be dismissed by the Supreme Court on 18.12.1990 as the Supreme Court saw no merit in the Special Leave Petition. Considering all these factors the application cannot be entertained and shall have to be dismissed not only on the ground of limitation, but also on the ground of res judicata. The application is therefore dismissed.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER (A)

(M.S.DESHPANDE)
VICE-CHAIRMAN

B.