

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CLERK'S OFFICE
BOMBAY BENCH
CAMP NAUPUR

(7)

199

O.A. NO: 500/91
T.A. NO:

DATE OF DECISION 14.3.1995

N.M.Gaware

Petitioner

Shri R.P.Darda

Advocate for the Petitioners

Versus

Union of India

Respondent

Shri M.G.Bhangde.

Advocate for the Respondent(s)

CORAM:

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

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

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 ?

(M.S.DESHPANDE)
VICE-CHAIRMAN

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH,
CAMP AT NAGPUR.

Original Application No.500/91.

N.M.Gaware.

... 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 Ramesh Darda.
Respondents by Shri M.G.Bhangde.

Oral Judgment:-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 14.3.1995.

The applicant by this application challenges the order dt. 13.4.1982 by which he came to be reverted.

2. The applicant was appointed as a Peon and he was being considered in 1979 in respect of 10% of quota for filling up the post of LDC from Group 'D' officials. There were four vacancies. The applicant came to be appointed on ad hoc basis on 26.7.1980 as L.D.C. ~~on a condition~~ upon his passing the typing test.

He passed the typing test on 15.1.1981, but he came to be reverted as a Peon on 14.2.1982 on the basis of some complaints made against him. The departmental authorities stayed the operation of the order, but that stay vacated on 14.5.1982. The applicant's contentions is that one R.A.Pathan had filed Writ Petition No.1201/82 before the Nagpur Bench of the Bombay High Court and that Writ Petition came to be transferred to this Tribunal and was numbered as T.A. No.240/87.

It was decided on 19.1.1990 and was allowed. The Tribunal observed that Pathan was entitled to be appointed on account of the error in determining

the roster point. The applicant had applied for intervention in that Writ Petition, but no order was passed on that application, ~~With the result, that~~ the applicant now cannot be regarded as having been a party to the Writ Petition. The applicant made a representation on 12.3.1990 in respect of his contention that he could not have been reverted because he had already passed the typing test on 15.1.1981 and that ^{he} fulfilled the condition on which he was appointed and that he was also entitled to have ~~roster~~ - the advantage of the ~~long~~ determination of the ^{two} points ~~raised~~, the consequence being that ~~points~~ were available for appointment to the candidates from the general category. The present O.A. was filed on 11.7.1991.

2. The main question which we have to determine is whether the present case can be said to be within time on the basis of the allegations made by the applicant himself. Evidently, the cause of action accrued when the reversion order was passed on 14.2.1982 or assuming that it arose when the stay order was vacated on 14.5.1982, the applicant should have pursued his remedy within three years of the accrual of the cause of action under the Law of limitation then prevailing for filing suits and this was not done. Shri Darda urged that the representation was made as soon as the earlier writ petition filed by Pathan was decided and that representation was finally rejected on 9.4.1991 and so the present claim would be within time. It is true that provisions of the Administrative Tribunals Act provide for filing a petition before the Tribunal within 18 months of the filing of the representation

and on this basis the contention was that the present petition would be within time. There is, however, nothing in the provisions of the Administrative Tribunals Act which would revive the claims which were already barred by time prior to the establishment of the Tribunal. Assuming that the cause of action accrued to the applicant on 14.5.1982 when the stay order was vacated, that being the later date, the suit should have been brought within three years from that date and that was the position before the coming into force of the Administrative Tribunals Act. It is not possible for us to accept Shri Darda's contention regarding how the claim would be within time. It is not necessary, therefore, to decide the other points which have been raised by the present petition. The application is dismissed as barred by time. There will be no order as to costs.

M.R.Kolhatkar

(M.R.KOLHATKAR)
MEMBER(A)

M.S.Deshpande
(M.S.DESHPANDE)
VICE-CHAIRMAN

B.