

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL



NEW BOMBAY BENCH

O.A. No. 145/91
EXXXXNex

198

DATE OF DECISION 25.4.1991Mr. S.C. Ramteke PetitionerMr. D.B. Walthare Advocate for the Petitioner(s)

Versus

Union of India & Ors. RespondentMr. Ramesh Darda Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. T.C. Reddy, 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 ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(P.S. Chaudhuri)
Member (A)

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

Original Application No. 145/91.

Shri S.C. Ramteke.

...Applicant.

V/s.

Union of India & Ors.

...Respondents.

Coram: Hon'ble Member (A), Shri P.S.Chaudhuri.
Hon'ble Member (J), Shri T.C. Reddy.

Appearances:

Applicant by Shri D.B. Walthare.
Respondents by Shri Ramesh Darda.

Oral Judgment:

¶ Per Shri P.S.Chaudhuri, Member (A) ¶ Dated: 25.4.1991.

1. This application under section 19 of the
(for short, ATA 1985)
Administrative Tribunals Act, 1985 was filed on 20.3.91.

In it the applicant who is working as a Labourer,
Ordnance Factory, Ambajhari is challenging his
reversion from the post of Fireman Gr. I to the post
of Labourer and connected and consequential orders.

2. The applicant joined service on 20.3.1967 as
Durwan. After some intermediate promotions, he was
promoted to the post of Fireman Gr.I. While working
in that post he made an application, which he alleges
was without his knowledge, on 29.3.78 seeking
reversion as Labourer Gr.'B'. By order dt. 28.4.79
he was relieved from the Rire Brigade section with
effect from 30.4.79 to the post of Labourer Gr.'B'.

It appears that he made a representation against this
reversion on 17.8.81 which was rejected on 22.10.81.

He made a further representation alleging mala fides on 17.4.89 which, too, was rejected on 27.10.89 in which he was told it was not necessary to grant him permission to move the matter in court but, however, if he so desired, he may take recourse as per departmental rules. The applicant has also filed M.P. 314/91 for condonation of delay.

3. We have heard Mr. D.E. Walthare, learned counsel for the applicant and Mr. Ramesh Darda, learned counsel for the Respondents.

4. Mr. Walthare attempted to get over the problem of limitation on a number of grounds. The first was that the order dated 28.4.79 was an illegal order, his option had been obtained without his knowledge and had been processed by an authority who was not competent to do so. Mr. Walthare contended that no limitation applies to illegal orders. He cited Ram Lal Thakur and others V. Union Territory of Chandigarh and others, - 1990 (2) SLJ (CAT) 132, in support of his proposition. But the question is not one of limitation, the question is one of jurisdiction. It is now well settled that we have no jurisdiction in respect of grievance which arose prior to 1.11.82 - (see V.K. Mehra V. Secretary, Ministry of Information and Broadcasting, ATR 1986 CAT 203.) If the alleged illegal order is dated 28.4.1979 it establishes beyond doubt that the cause of action arose in April 1979.

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5. Mr. Walthare's second submission was that the last occasion on which his representation had been rejected was 14.12.90 (Annexure -2 at page 18 of the application). We do not see how this helps him. His representation in this regard had first been rejected as far back as in 1981. Mr. Walthare then contended that this order dt. 14.12.1990 constituted a fresh starting point for limitation in terms of the Judgment of the Madras Bench in C.R. Bala Subramaniam and Others V. Chief Workshop Manager, Podanur, 1990(1) SLJ 345 (CAT). But we do not see how even this helps him as the Supreme Court have held that repeated representations do not revive a cause of action - (see S.S. Rathore V. State of M.P., ATR 1990 SC 10.)

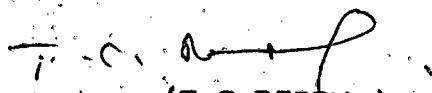
6. Mr. Walthare's third submission was that there had been delay in filing the application as the relevant papers had been misplaced and it took some time to locate these papers. We have already held that we have no jurisdiction in the matter because the cause of action arose prior to 1.1.82. Even assuming that it arose after 1.11.82, a long enough period has since elapsed during which the applicant could well have reconstructed the record. Against this background whilst we sympathise with the applicant for the temporary loss of his papers, we are unable to go along with him in his contention that this is an adequate reason for delay.

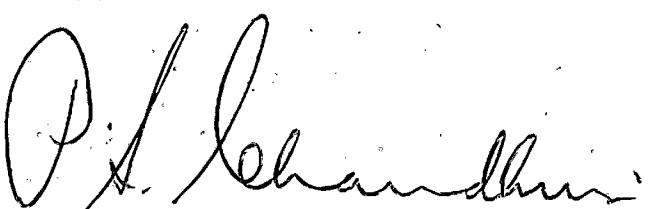
7. Mr. Walthare's fourth submission was that the question of limitation was only a technicality. Whilst it is true that as far as Writ Petitions before the High Court are concerned the question of limitation is one of procedure, that is not so as far as the Tribunal is concerned. There are specific provisions in this regard in Section 21 of the ATA 1985. In any case, even in writ petitions the allegation of delay and laches has to be answered satisfactorily.

8. Mr. Walthare's final submission was that even if we found ourselves unable to condone the delay, the application could be admitted by limiting the financial claims to a period of 3 years before the date of filing this application. Considering that we have held that we have no jurisdiction in the matter, we do not see how we can go along with this submission of Mr. Walthare.

9. In this view of the matter, we see no merit in M.P. 314/91 for condonation of delay and are of the opinion that it merits rejection. We accordingly reject it.

10. Having rejected M.P. 314/91 for condonation of delay, we summarily reject this application under section 19(3) of the ATA 1985.


(T.C.REDDY.)
MEMBER (J)


(P.S.CHAUDHURI.)
MEMBER (A)