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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 42/92

~~Transfer Application No:~~

DATE OF DECISION 18-8-93

Shri I.H.Hunsikatti ----- Petitioner

Applicant in person ----- Advocate for the Petitioners

Versus

Union of India & Ors. ----- Respondent


Shri V.G.Rege ----- Advocate for the Respondent(s)

CORAM:

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

The Hon'ble ~~Smt.~~ Smt. L.Swaminathan, 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 ?
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(M.Y.Priolkar)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. No.42/92

Shri I.H.Hunsikatti

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Applicant

vs

Union of India
Through Director,
Central Institute for
Research on Cotton
Technology, Matunga,
Bombay-19 and Ors.

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Respondents.

Coram: Hon'ble Shri M.Y.Priolkar, Member(A)
Hon'ble Smt. L.Swaminathan, Member(J)

Appearance:

Applicant in person

Shri V.G.Rege for the
respondents.

Dated: 18-8-93

Oral Judgement

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

The applicant was appointed as a Technical Research Assistant on 11-9-1969 in the Cotton Technological Research Laboratory, now part of Indian Council of Agricultural Research with a probationary period of 2 years which was further extended from time to time, as the respondents found that his work and conduct were reported to be not satisfactory. He was also specifically warned by letter dated 8-10-1971 that if he failed to show marked improvement, his services were liable to be terminated. He was similarly warned again by letter dated 22-1-73. In April 1973, his probationary period was further extended up to 10-3-74. Finally by letter dated 17-9-75, his services were terminated with effect from 17th Nov.75. Following his representation for re-instatement in service, the applicant was offered by letter dated 23-3-77 re-appointment to the post of Technical Assistant on the specific condition inter-alia that this appointment

will be a fresh one and the applicant will not get any advantage of the previous service and that he will be on fresh probation for a period of two years from the date of joining the post. The applicant represented against this condition vide communication dated 16-4-77. In reply, he was informed on 7th May'77 that he will not be given any benefit of the previous service and his appointment will be treated only as fresh appointment. The applicant by his letter dated 7-5-77 finally accepted the terms and conditions as contained in the memorandum dated 23rd March'77. He joined as a fresh entrant on the same date i.e. on 7-5-77. It appears that after joining as a fresh appointee, the applicant went on submitting representations for the benefit of continuity in service, all of which were rejected. By letter dated 2-3-88, the applicant was however given benefit of increments in the previous scale of service and his pay was fixed at Rs.500/- i.e. at the stage he was drawing pay before his termination. The applicant still represented for benefit of seniority etc. with regard to his past service. By letter dated 25-9-91, a final decision was communicated to the applicant that the earlier decisions communicated to him treating him as fresh entrant from 7-5-77 without any benefit for seniority of past service stand.

The applicant has filed the present O.A. before the Tribunal only on 18-12-91 praying for directions for regularising his services with full benefits including seniority and promotions from 11-9-69. He has also prayed for grant of Study Leave for study of M.Sc.(Physics).

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The respondents have raised a preliminary objection that this application is grossly time barred. The grievance of the applicant arose in 1977 when he was offered re-appointment on the specific condition inter-alia that he will not be given benefit of past service and that he will be treated as purely fresh entrant. In reply to his representation he was specifically told on 7-5-77 that he had joined service only on these terms and conditions and that benefit of past service will not be given to him. The applicant should have approached a competent court against this grievance within a reasonable time from 7-5-77 i.e. after he joined the post specifically as a fresh entrant accepting the condition that he will not get benefit of continuity in service. But he merely went on representing and he also received further replies confirming the earlier decisions. Repeated representations will not have the effect of extending the limitation. We, therefore, dismiss this application solely on the ground of limitation holding that this is a grossly time barred case.

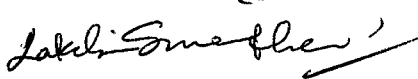
Regarding the prayer for Study Leave, the respondents contend that the leave was not granted as it would have interfered with the duties of the applicant. We have perused the Study Leave Rules. It is clear that Study Leave is granted only for full time courses when the course of training is of advantage to the administration from the point of view of public interest and it is related to the duties of the concerned Government employee. We therefore suggest that the applicant should submit a fresh application if he so desires, to the competent authority and such authority should

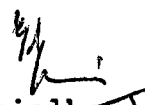
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consider the application within 2 months from its receipt under the Study Leave Rules.

The O.A. is dismissed with no order as to costs.


(Smt. L. Swaminathan)
Member(J)


(M. Y. Priolkar)
Member(A)

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