

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 294/93.  
~~XXXXXX~~.

199

DATE OF DECISION 11.07.1994.

Bhaureo Bansilal Telmore

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

1. Whether it be referred to the Reporter or not ? *no*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

MEMBER

  
VICE CHAIRMAN

mbm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY-1

CAMP: NGAPUR

O.A. NO. 294/93

Bhaurao Bansilal Telmore

..Applicant

V/s.

Union of India & Ors.

..Respondents

Coram: Hon. Shri Justice M.S. Deshpande, V.C.

APPEARANCE:

Mr. S.M. Kharad  
counsel for the applicant

Mr. M G Bhangade  
counsel for the respondents

ORAL JUDGMENT:

DATED: 11.7.1994

(Per: M.S. Deshpande, Vice Chairman)

The only question which arises for consideration in this application is whether the present application is within time. The applicant who was working as Extra Departmental Branch Post Master (EDBPM) was dismissed from service by an order dated 5.7.1990 after the departmental enquiry. That order was set aside in appeal on 13.2.1991 and the applicant came to be reinstated on 16.3.1991. The present application was filed on 9.3.1993 and would obviously be barred by time. At the time of Admission an objection was raised by the learned counsel for the respondents on 10.9.93 that the application was barred by time. Shri A.S. Bhagat, ~~counsel~~, who was then appearing stated that he wanted time to file an application for condonation of delay. On 8.11.1993 Shri Bhagat stated that there was no need to file an application for condonation

*W. K.*

of delay in view of the objections raised in the rejoinder. The O.A. was therefore admitted leaving the question of limitation open.

2. Shri Kharad, the learned counsel who is now appearing after the death of Shri Bhagat first urged that the application was within time. When he saw that the application would be barred by time, he stated that he would file an application for condonation of delay. It is clear that the applicant through his Advocate made a choice of not filing an application for condonation of delay. Shri Kharad therefore cannot urge on behalf of the applicant that further time should be granted for filing an application for condonation of delay.

3. The small question which arises for consideration is whether the applicant would be entitled to the wages between 6.7.86 and 13.3.91. The claim is obviously now beyond time. The application is, therefore, dismissed as barred by time. No order as to costs.

  
(M.S. Deshpande)  
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY BENCH, BOMBAY.

Review Petition No. 102/94  
in  
Original Application No. 294/93.

Bhaurao Bansilal Telmore. .... Applicant.

V/s.

Union of India & Ors. .... Respondents.

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

ORDER ON REVIEW PETITION NO. 102/94.

[Per Shri M.S. Deshpande, Vice-Chairman] Dt. 30.8.94.

By O.A. No. 294/93 the applicant had sought payment of back wages from 6.10.1986 until his reinstatement in service on 15.3.1991. The applicant was dismissed from service on 5.7.1990 after a departmental inquiry and that order was set aside in appeal on 13.2.91 and the applicant came to be reinstated on 16.3.1991. The OA was filed on 9.3.1993 obviously beyond the period of one year <sup>as</sup> allowed by Section 21 of the Administrative Tribunals Act. The point of limitation had been raised at the earliest stage, but that point was kept open and the question of limitation was <sup>to be</sup> considered when the case was taken up for final hearing on 11.7.1994.

2. The only ground which is sought to be made out by the applicant for reviewing the order dismissing the OA as barred by time is that as he was new to the case he had not looked into the Rejoinder which was filed by the original counsel who had died during the pendency of the case. It has been stated in the Review Petition itself that no arguments were advanced by the present counsel on the basis of the Rejoinder filed by the applicant. The Rejoinder only refers to certain case

....2.

laws which would not cover the point of limitation. In any event, it is urged that the dismissal of the case on the ground of limitation was an erroneous decision. If that is the position the Review Petition is not the remedy. No new ground has been made out which would not have been available to the applicant when the matter was heard at the time of final hearing. There is no merit in the Review Petition, it is dismissed.

  
(M. S. DESHPANDE)  
VICE-CHAIRMAN

B.