

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.6/2001 in OA.No.1026/94

Dated this the 7<sup>th</sup> day of June 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

J.Ramamurthy ...Applicant  
vs.  
Union of India & Ors. ...Respondents

Tribunal's Order

The applicant has prepared this review petition under Rule 17 (i) of C.A.T. (Procedure) Rules,1987 in respect of an order passed by this Bench on 3.1.2001 in OA.NO.1026/94 dismissing the OA. on the ground of Limitation, delay and laches.

2. The applicant has preferred the review on the following three grounds :-

(i) The representation made by Government Servants to competent authorities are recognised mode of redressal of grievance in service matter and same are treated as covered within the ambit of Section 20 of A.T.Act,1985.

(ii) The promotion of Respondent No. 3 as Senior Administrative Officer is illegal in as much as blatant violation of Government orders and there is no period of limitation to challenge the said order.

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(iii) In alternative, as abundant caution, the delay is sought to be condoned on the basis of various reported judgements mentioned in Review Petition.

3. Regarding point No. 1 as the facts stands the Respondent No.3 was promoted in October, 1989 and the applicant agitated his grievance for the first time vide letter dated 21st July, 1993. The applicant kept silence for about quarter to four years to agitate the matter before the departmental authorities which was decided on 9th September, 1993. The applicant has filed the OA. on 15.9.1994. The finding recorded by this tribunal that the case of the applicant suffers from delay and laches is warranted on the facts of the case.

4. The filing of the delayed representation, the decision thereon does not give a cause of action to the applicant which unsettles the settled position after a period of five years.

5. Regarding point No. 2, we are of the considered opinion that merits of the case was not decided by the Tribunal, hence question of review in respect of the same does not arise. Regarding limitation in respect of void orders, it is suffice to mention that the order which is said to be void is operative until and unless it is set aside by the competent authority. If a person has got some benefit in view of the void order, the position has been settled and in the present case for a period of five years or so, such an action can not be challenged ignoring the provisions of Section 21 of the A.T.Act, 1985, as the said provision also applies to the void orders.

6. Regarding point No. 3, on perusal of para 3 of the OA., we find the averment of the applicant is as under :-

"III. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985."

7. A person claiming the OA. to be within limitation cannot be allowed to be heard that too in review petition and alternatively, that if the OA. is to be treated as barred by time, the delay be condoned. In a review, a new case, not pleaded by the applicant, cannot be allowed to <sup>be</sup> made out.

8. In the result, we do not find any merit in the review petition filed by the applicant, the scope of which is as mentioned under order 47 Rule 1 C.P.C., rather it is an abuse of the process of the Law. The review petition deserves to be dismissed and is dismissed accordingly.

Shanta J

(SMT.SHANTA SHAstry)

MEMBER (A)

J.S.Jain

(S.L.JAIN)

MEMBER (J)

mrj.