

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

ORIGINAL APPLICATION NO. 1174 / 1994.

Thursday the 4th day of January, 1996.

Coram: Hon'ble Shri B.S.Hegde, Member(J).

C.B.Kale. ... Applicant.
(Applicant in Person)
V/s.

Union of India through the
Director General,
Department of Posts,
New Delhi.

The Chief Postmaster General
Maharashtra Circle, Bombay. ... Respondents.
(By Advocate Shri P.M.Pradhan)

ORAL ORDER

(Per Shri B.S.Hegde, Member(J))

In this O.A. the applicant seeks relief of fixing of pay with effect from 1.1.1973. The applicant was retired as back as 31.8.1981. The learned counsel for the applicant submits, that the matter may be placed before the Division Bench for considering limitation etc.

2. The learned counsel for the respondents Shri P.M.Pradhan contended that the matter is hopelessly barred by time and the same is liable to be dismissed. He has drawn my attention to the order dt. 23.11.1995 in O.A. 1173/94 similar matter of the applicant which was dismissed on the ground of limitation. Therefore, in my view the question of referring the matter to the Division Bench does not arise.

...2.

3. The Administrative Tribunals Act does not vest any power or authority to take cognizance of a grievance arising out of an order made prior to 1.11.1982. The limited power that is vested to condone the delay in filing the application within the period prescribed ~~is~~ under Section 21, provided the grievance is in respect of an order made within 3 years of the constitution of the Tribunal.

4. In this case the relief claimed is for the period as back as 1973. Hence, I do not find any merit in the O.A. Accordingly, the O.A. is dismissed at the admission stage itself.

M.P. 634/95 also stands disposed of.


(B.S. HEGDE)
MEMBER (J).

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT BOMBAY/

Review Petition No. 53 1996.

in

O.A. No. 1174 of 1994.

C. B. KALE

... Applicant

V/S

Union of India & Ors.

... Respondents.

Petition for restoration of O.A. 1174

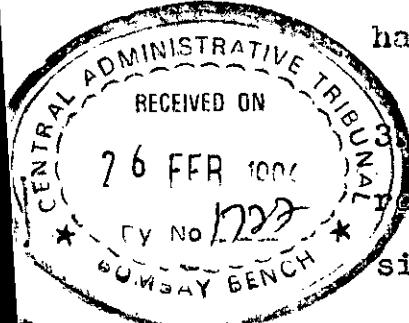
of 1994.

MAY IT PLEASE YOUR LORDSHIPS.

A copy of the judgement and order dismissing the O.A. No. 1174 of 1994 is received by the Applicant on 29-1-96. As he is aggrieved thereby he is filing this review petition on the following grounds :-

1. The O.A. is dismissed only on technical ground of limitation. In para 3, the reference of Sec. 21 of the A.T. act is given & it is stated that this act does not vest any power to take cognizance of a grievance arising out of an order made prior to 1-11-82. With due respect the Applicant has to submit that subsection 3 of Sec. 21 empowers the Tribunal to admit such delayed cases, if the Applicant satisfies the Tribunal that he had sufficient cause for not making the application within the prescribed period. There are therefore exceptions as usual and the case of the applicant comes under such exceptions.

2. There is no allegation of mala fide intention for filing the application, first in the Central Govt. Labour Court by the applicant as a workman from the Respondents. This Hon'ble Court has also not so alleged. The C.G.L.C. has also not made any such remarks in its judgement & order.



First of all it has accepted the case and decision regarding jurisdiction is taken after hearing both the sides & after examinations & cross examinations of the

3... witnesses. It is therefore evident that there was some substance and point for discretion for taking decision on the application. Otherwise it could have been rejected straightway. As the matter was depending upon discretion about which ~~none~~^{Nothing} could have been foretold , the Applicant cant be blamed for filing his application in the C.G.L.C. There was also possibility of having the order in his favour.

4. Secondly the important question arises as to whether the Applicant is responsible for so much delay. The reply would be surely negative. He had actually no control over the case after it was filed in the CGLC. It has taken its own time as per procedure of the Court . The Applicant cant be blamed for that.

5. The Applicant has already explained in his O.A. , rejoinder and application for condonation for delay in detail as to why he filed his application in CGLC as a workman and by the decisions of other CATs he has supported his case for condonation of delay.

6. If the case is filed bona fide in the wrong court , the period spent in that court to any length is to be excluded from limitation . Pay, Pension , Promotion are the Fundamental Rights and breach thereof is a continuing wrong. This must have been taken into consideration by the Division Bench while admitting the O.A. No. 1176 of 1994. wherein the same reasons for condonation of delay are given and the Applicant had therefore earnestly prayed to place the matter before the Division Bench .

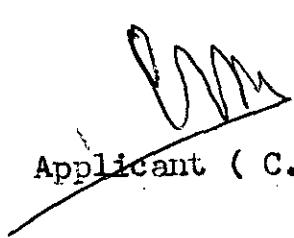
7. O.A. No. 1173/94 is dismissed without the Applicant being heard . He had given prior application for his absence stating his difficulties . It is not known whether that application was put forth before the Lordship or not. Dismissal of both the O.A. by the Single Bench is likely to affect the decision of the Division Bench in respect of O.A. No. 1176/94.

8. The Applicant was not sleeping over the matter but was agitating it for years together filing the application in CGLC in time. The CGLC has not touched the merits of the case but has given decision only on technical ground regarding jurisdiction. Thereafter the Applicant has filed his application in this Hon'ble Tribunal immediately within a month.

9. The Applicant will be put to irreparable loss if his case is not heard and decided on merits. It is therefore prayed to reconsider the application No. 1174/94 in the circumstances explained above as the Applicant is not responsible for the real cause of delay, and his application may kindly be restored.

A copy of the judgement and order is annexed.

Bombay 26th February 96.


Applicant (C.B.KALE)