

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1293/94
Transfer Application No.

Date of Decision : 27/03/1995

S.P. Hiremath

Petitioner

Shri.R.P.Saxena

Advocate for the
Petitioners

Versus

Chairman, Dept.of Atomic Energy. Respondents

Shri.J.G. Sawant

Advocate for the
respondents

C O R A M :

The Hon'ble Shri Justice M.S. Deshpande, Vice Chairman
The Hon'ble Shri P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not ? ~
- (2) Whether it needs to be circulated to
other Benches of the Tribunal? ~


(M.S. DESHPANDE)
V.C

J*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 1293/94

S.P. Hiremath

.. Applicant

Vs.

Union of India
through
The Chairman
Department of Atomic Energy
Bombay .. Respondents

CORAM : 1. Hon'ble Shri Justice M.S.Deshpande, V.C
2. Hon'ble Shri. P.P.Srivastava, Member (A)

Appearances

1. Shri. R.P. Saxena, Counsel
for the applicant.
2. Shri. J.G. Sawant, Counsel
for the respondent.

ORAL JUDGMENT

DATED : 27/03/1995

(Per Shri Justice M.S.Deshpande, Vice Chairman)

Initially Shri.R.P.Saxena, learned counsel for the applicant states that since the application for condonation of delay was presented by the applicant without consulting him, he wants to withdraw the power. The applicant was present in the Court. Since no application seeking leave to withdraw the power has been filed by Shri.Saxena and both the applicant and Shri.R.P.Saxena, learned counsel for the applicant are present, we declined to grant leave to Shri.Saxena to withdraw the power at this stage.

2. Heard Shri.R.P.Saxena, learned counsel for the applicant, after getting instructed by the applicant on the question of condonation of delay as well as admission and Shri.J.G.Sawant, learned counsel for the respondent on these points.

3. The prayers made in the original application are for declaring that the applicant is entitled to promotion for the post of SO/Eng/SB since August 1971 with all future regular promotions and other consequential benefits and Rs.35,000 as loss of basic salary and D.A with 18% interest and also for a direction to the respondent to handover the matters of all three scandals to the Vigilance Department for necessary investigation and to probe into the affairs.

4. It is apparent ~~from the material placed before us, that~~ the applicant became due for promotion in 1971 when his juniors were promoted. The applicant was held-up because of certain adverse remarks which came to be expunged in 1972. The cause of action for the applicant to approach the proper ~~forum~~ therefore arose in 1972 when the adverse confidential remarks were expunged. The learned counsel for the applicant states that the time would be saved because the applicant made certain representations to the respondent earlier, though the present application was filed on 08.10.94. When the matter came before us on 2.12.94, we ~~have~~ directed ^{issue to the} ~~to issue~~ notice to respondents for filing reply and on 16.1.95, the applicant's counsel requested time to amend the present O.A. However, no application for amending the O.A was filed but M.P 135/95 for condonation of delay came to be filed and the respondents have filed reply opposing the admission raising question of limitation.

5. The learned counsel for the applicant states that the applicant has received a letter dated 27.5.1985 in reply to applicant's letter dated 10.5.1985 in which it was stated that while appreciating his anxiety to have the discussions recorded, Shri. Oza before proceeding on leave desired that the Under Secretary to the Government of India, Shri.S.Ranganathan may inform the applicant that the contents of para 3 of applicant's letter was not

true and that what Shri. Oza informed the applicant at the meeting was that the matter is being looked into by calling for the details from the unit. We have asked the learned counsel for the applicant to produce the letter dated 10.5.1985 and the same was produced before us. The applicant's letter sought to record that there was a meeting between him and Shri. Oza on 16.3.1985 regarding the applicant's representations with respect to fixation of seniority and other benefits and that the applicant explained to Shri. Oza the position that there have been defaults on the part of the department and Shri. Oza has appreciated the same. He has also mentioned in ^{the} ~~his~~ third unnumbered para that he is thankful to Shri. Oza, that he has appreciated the position and the applicant's claims having gone by defaults on the part of the department. It is precisely, ~~the position~~ ^{the position} at para 3 which has been denied by Shri. S. Ranganathan by his letter dated May 27, 1985. We therefore see no merit in the applicant's submission that the defaults on the part of the department had been admitted by them.

6. With regard to application for condonation of delay, what is stated in that application is that the applicant had been representing his case before the respondents time and again, but no action for redressal of applicant's grievance was taken and therefore the delay should be condoned. Except the bland statement that the applicant was making representations time and again, no other correspondence, barring the two letters to which we have referred to above, were produced. As we have already stated, the cause of action for the applicant to approach the proper Forum arose in 1972 and he should have approached them within three years, which would be the period of limitation. This he did not do and if he went on

representing ~~the~~ ^{his} case, that would not extend the period of limitation for filing the suit and in any event, the delay in filing the suit cannot be extended by availing of these steps of making representations. All that we have to consider is whether ^{there is} any acknowledgement of the applicant's claim which ~~should~~ extend the period of limitation under the pre-existing law and no such material has been produced before us. In the circumstances, we see no merit in the application for condonation of delay. The O.A is barred by time and the Application for condonation of delay is dismissed. The O.A is also accordingly dismissed.


(P.P. SRIVASTAVA)
MEMBER (A)


(M.S. DESHPANDE)
VICE CHAIRMAN

J