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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION NO.428/92

DATE OF JUDGEMENT:

23 FEBRUARY, 1993

Between

G.Ramamurthy

.. Applicant

and Union of India, Represented by:

1. Secretary to Government  
Department of Posts,  
New Delhi

2. Chief Post Master General  
AP Circle  
HYDERABAD-500 001

3. Post Master General  
Office of the Chief Post Master General  
HYDERABAD

4. Senior Superintendent of Post Offices,  
Hyderabad City Division,  
HYDERABAD 500 001

.. Respondents

Counsel for the Applicant :: Mr KSR Anjaneyulu

Counsel for the Respondents :: Mr NR Devraj, Sr CGSC

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

JUDGEMENT

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This is an application filed under Section 19 of the Administrative Tribunals Act, by the applicant herein to direct the respondents to alter the date of birth of the applicant from 16.5.1934 to 29.12.1936 on the basis of extract of birth register and to allow him to continue in service till he attains his superannuation on the basis of his correct date of Birth till 31.12.1994.

2. The facts so far necessary to adjudicate this OA in brief, may be stated as follows:

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3. The applicant was appointed as T/S clerk P&T Department on 10.6.1957. In his service records, date of birth of the applicant was recorded as 16.5.1934. The applicant obtained the birth extract from the Register issued by the Sub-Registrar under Section 12 of the Birth's & Death's Act, 1969 on 21.8.1988. According to the applicant, his correct date of birth is 29.12.36 as per the said birth extract. After knowing his correct date of birth as 29.12.36, the applicant submitted his representation on 20.5.1988 to the competent authority explaining the circumstances that led to <sup>the</sup> wrong entry of his date of birth in the school records and which was adopted in the service records also. To his representation dated 20.5.88, the S.S.P.O, Hyderabad vide his letter dated 20.9.88 replied stating that the applicant had not put up his claim within five years from the date of entry into Government service as per the Government order No.2 under FR 56 and hence the request of the applicant cannot be entertained. Thereupon the applicant submitted another representation dated 17.8.88 stating that his case should be considered fairly as he came to know his correct date of birth as 29.12.36 which was supported by documentary evidence. The Senior Superintendent of Post Offices Hyderabad (4th respondent herein) ~~is~~ vide his letter dated 31.1.1989 replied that the representation of the applicant dated 17.8.88 was rejected. The applicant was due to retire on 31.5.1992.

4. The applicant submitted another representation to the Chief Post Master General, Hyderabad dated 7.12.90/with a request to consider his case according to ~~the~~ law in the light of Judgement of this Tribunal ~~dated~~ passed in CA No.459/90 and correct his date of birth from 16.5.34 to 29.12.36. The Chief Postmaster General keeping the matter pending for over a year replied as per S.S.P.Os/<sup>Hyderabad Division</sup> letter dated 4.5.92 advising that the represen-

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tation should be addressed to the Director General of Posts, New Delhi. Accordingly, the applicant submitted his representation to the Director General of Posts, New Delhi on 9.5.92 to change his date of birth in his service records from 16.5.34 to 29.12.36 after furnishing a copy of the Judgement of this Tribunal passed in OA 459 of 1990 and permit him to continue in service till he attains superannuation on 31.2.94. The applicant was actually retired on 31.5.92. The present application is filed for the relief as already indicated above-

5. Counter is filed by the respondents opposing this OA.

6. This OA was listed for final hearing on 18.2.93. When the OA came up for hearing Shri NR Devraj, Standing Counsel for the respondents raised the limitation pleas and contended that this OA is barred by time. In view of the question raised

on the point of limitation, both sides  
counsel Standing Couns  
Mr KSR Anjaneyulu/for applicant and Mr NR Devraj/for  
respondents were heard on the point of limitation and we  
proceed to decide this OA on the point of limitation.  
As a matter of fact, both sides invited this Tribunal to  
give a decision on the question of limitation and further  
submitted that after the question of limitation is decided,  
that both sides would submit the arguments if necessary on  
merits.

7. It is not in dispute that the applicant herein had first put in representation on 20.5.1988 to the competent authority for correction of his date of birth. The same had been rejected by the respondents vide their letter dated 20.9.1988. While rejecting the representation of the applicant dated 20.5.1988, in the

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proceedings of the Senior Superintendent of Post Offices letter dated 20.9.88, it is stated that the applicant had not put his claim within five years from the date of entry into Government service as per the Government order No.2 under FR 56. The contention of the learned counsel for the applicant is that the said rejection order dated 20.9.88 is illegal, void, ab-initio and from the order of 20.9.88, it is not open to the respondents to contend that this OA is barred by limitation.

8. Even accepting the contention of the learned counsel for the applicant that the order dated 20.9.88 is void, now it has got to be seen whether the period of limitation prescribed under Section 21 of the Administrative Tribunals Act is applicable to an application challenging a void order. In this context, we straightaway <sup>may</sup> refer to a decision <sup>reported in</sup> of the Full Bench Judgements of Central Administrative Tribunals (1989-1991) at Page 498 Dhiru Mohan Applicant Versus Union of India and others respondents, wherein Honourable Shri SB Sekhon, Vice-Chairman speaking on behalf of the Full Bench had held as follows:

"HELD the next important point which falls for consideration is as to whether or not on the true import and construction of Section 21, it would be correct to take the view that there is no period of limitation in respect of an application assailing a void order or an order void ab-initio. In this connection, it is significant to notice that Section 21 does not make any distinction between an application impugning an irregular or illegal order and an application impugning a void order. That apart, there is no provision express or implied in Section 21 or in any other provision of the Act to warrant the view that the period of limitation prescribed by Section 21 is in-applicable in the case of an application challenging a void order.

HELD, for the reasons enumerated herein above, we are unable to countenance the view that an application under Section 19 of the Administrative Tribunals Act, 1985 impugning a void order is not to be governed by the period of limitation prescribed by Section 21 of the Act.

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The correct view to our mind appears to be that the period of limitation prescribed by Section 21 of the Act would regulate the question of limitation for an Application filed under Section 19 of the Act irrespective of the fact whether it impugns an irregular order or illegal order or avoid order. The question referred to us is answered accordingly.....

9. So, the fact that the first ~~re~~ rejection order of the respondents ~~xxxxxx~~, to correct the date of birth of the applicant ~~xxxxxx~~ is 20.9.88 is not at all in dispute in this OA. It is also not in dispute that the cause of action for this OA is ~~in~~ the order of the respondents dated 20.9.88. It is needless to point out that the period of limitation began to run for filing this OA with effect from 20.9.88. It is settled principle that once the period of limitation begins to run, no disability or inability to file the OA will stop running of the limitation. So in view of the provisions contained in Section 21 of the Administrative Tribunals Act, the period within which the OA to be filed was one year from 20.9.88. Admittedly, this OA had been filed on 20.5.92. There is more than 3 years delay in filing this OA. The delay of 3 years in filing this OA is not at all explained with any valid reasons. The observations ~~xxxxxx~~, of the Full Bench Judgement of the Central Administrative Tribunals (1989-91) cited supra applies on all fours to the facts of this case. Hence, we have no difficulty to come to the conclusion that this OA is barried by time and so is liable to be dismissed.

10. The learned counsel appearing for the applicant

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maintained that the applicant had put in representations on 17.8.1988, 7.12.90 and ~~on~~ on 9.5.92 to the competent authority to alter his date of birth from 16.5.34 to 29.12.1936 and as the representation dated 9.5.92 to the Director General Posts, New Delhi was pending at the time of filing this OA, no question of limitation is involved as in this OA and hence, ~~this OA is within time, this OA is~~ maintainable.

11. As already indicated, the representation of the applicant dated 17.8.1988 was rejected by the Senior Superintendent of Post Offices vide his orders dated 31.1.89. For the representation of the applicant dated 7.12.90 the applicant had been advised by the Chief Postmaster Hyderabad for correction of date of birth General to submit his representation to the Director General of Posts, New Delhi, as per his letter dated 4.5.92. It is only under these circumstances that the applicant has again submitted a representation to the Director General of Posts, New Delhi, on 9.5.92. After the orders of rejection dated 20.9.88 passed by the S.S.P.Os (4th respondent herein) with regard to correction of date of birth of the applicant from 16.5.34 to 29.12.36, no doubt, the applicant had been putting repeated representations for readdressal of his grievances to correct his date of birth from 16.5.34 to 29.12.36. In AIR 1990 SC 10 S.S. Rathore Vs State of MP it is held that repeated representations do not extend the period of limitation. So, as the applicant had not approached this Tribunal within a period of one year as contemplated under Section 21 of the Central Administrative Tribunals Act after the said <sup>rejection</sup> orders of the respondents dated 20.9.88 and repeated representations do not extend the period of limitation as already pointed out, this OA is certainly ~~barred by time and as already indicated is liable~~ to be dismissed.

11. The applicant having joined service in 1957, only at the fag end of his service in the year 1992, had approached this Tribunal for getting his date of birth corrected. According to the applicant, he came to know of his correct date of birth as 29.12.36 only in the year 1988. It will be absurd to say that the applicant was completely in darkness with regard to the correct date of birth and had no knowledge of the same prior to the year 1988. Even after 1988, after knowing his correct date of birth as 29.12.36, the applicant had not been deligent enough to approach this Tribunal for readdressal of his grievance within a reasonable time. So, we see any amount of latches on the part of the applicant in approaching this Tribunal and for these reasons also this OA is liable to be dismissed. For all the reasons mentioned above, this OA is dismissed leaving the parties to bear their own costs.

T. Chandrasekara  
(T.CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 23 February, 1993 Dy. Registrar 88/39

Copy to:-

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1. Secretary to Government, Department of Posts, New Delhi.
2. Chief Post Master General A.P. Circle, Hyderabad-001.
3. Post Master General, Office of the Chief Post Master General, Hyd
4. Senior Superintendent of Post Offices, Hyderabad City Division, H
5. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
6. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
7. One spare copy.

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O.A. 4289/2

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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY  
: MEMBER (J)

AND

THE HON'BLE MR.

DATED: 23/2/1993

ORDER/JUDGMENT:

R.P./C.P/M.A. N.

O.A. No.

4289/2

T.A. No.

(W.P. No.)

Admitted and Interim directions  
issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

NO order as to costs.

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