

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 711 of 1992

DATE OF JUDGMENT: 30/5 OCTOBER, 1992

BETWEEN:

Mr. Md. Shami Ulla ..

Applicant

AND

1. The Commander Works Engineer,
Visakhapatnam.
2. The Chief Engineer (Navy),
Visakhapatnam.
3. The Headquarters Chief Engineer,
Southern Command,
Pune. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr. A. Ravi Shankar

COUNSEL FOR THE RESPONDENTS: Mr. N. R. Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri R. Balasubramanian, Member (Admn.)

Hon'ble Shri C. J. Roy, Member (Judl.)

contd....

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B.R.D.

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 filed by the applicant claiming a relief to declare the action of the respondents in not appointing him as Lift Attender (Operator) as arbitrary and illegal and direct the respondents to appoint him as Lift Attendant (Operator) in the first vacancy.

2. The brief facts of the case are as follows:-

The applicant is working as Chowkidar in Commander-Works-Engineers, Visakhapatnam. Pursuant to the Advertisement, the applicant appeared for the interview on 30th August, 1984 for the post of Lift Attendant (Operator) and he states that he was selected and in the panel of selected candidates, his name was placed at Sl.No.3. For some reason or the other, the claim of the applicant for the post was ignored.

3. The applicant submitted a representation on 20.4.85 for appointing him as Lift Attendant (Operator) and same was replied ~~xxxxxx~~ on 6-5-1985 stating that as per the existing instructions, the post of Lift Operators is to be reserved only for Ex-Serviceman and hence the case is treated as closed. The applicant states that subsequently he was asked to attend the office of the 1st respondent on 22.7.1985 at

32

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10.00 hours with all educational qualification certificates and other connected documents, for posting, and he attended the office of the 1st respondent. Since nothing was heard from the respondents, the applicant made another representation on 13-3-1992 to the 1st respondent and the same was rejected stating that his case was already closed on 6-5-1985 and he cannot claim the post of Lift Operator.

4. The applicant states that as per the proceedings of the Ministry of Home Affairs dated 8.2.1982 regarding the validity period of selected candidates prepared on the basis of direct recruitment/departmental competitive examination, the applicant is entitled for the post. Hence, this application.

5. We have heard the learned counsel for the applicant, Mr. A. Ravi Shankar and the learned Senior Standing Counsel for the Respondents, Mr. N. R. Devaraj.


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*3rd part
Q*

6. The main contention of the applicant is that in terms of the ~~xx~~ Office Memorandum No.22011/2/79-Estt(D), dated 8.2.1982 of the Ministry of Home Affairs, the panel of selected candidates for the post of Lift Attendant (Operator) wherein he stands at Sl.No.3, shall be continued till all the candidates are accommodated and whenever next vacancy arises, he should be accommodated as per the panel.

7. In reply to his representation dated 20.4.1985, the applicant was informed that as per the then existing instructions, the post of Lift Operator was to be reserved only for Ex-serviceman and that the case therefore be treated as closed. Thereafter, the applicant kept quiet for about 7 years and in the year 1992, he made another representation on 13.3.1992 which was also rejected stating that his case was already closed on 6.5.1985. Hence, it is evident that the final rejection of the representation was made on 6.5.1985 by the respondents. The applicant filed this (O-A) application on 5.8.1992. Hence, there is a delay of nearly 7 years for filing this application. The applicant would have approached this Tribunal immediately within one year from the date of rejection of his representation which was on 6.5.1985. The O.A. is ~~barred~~ hopelessly by time. The subsequent representation of the applicant and rejection of the same to the applicant on 23.3.1992 will not give cause of action for filing this O.A. since the ~~xx~~ subsequent representation of the applicant was rejected stating that the case was treated as closed on 6.5.1985 itself.

Copy to:-

1. The Commander Works Engineer, Visakhapatnam.
2. The Chief Engineer(Navy), Visakhapatnam.
3. The Headquarters Chief Engineer, Southern Command, Pune.
4. One copy to Sri. A.Ravi Shanker, advocate, 11-5-153, Redhills, Hyd.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One spare copy.

Rsm/-

*6 copies
Recd*

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8. The representation of the applicant dated 20.4.1985 has been replied on 6.5.1985 itself stating that the case of the applicant was to be treated as closed. The subsequent representation dated 13.3.1992, after a long period of seven years, though was replied, it will not give cause of action to the applicant for filing this application and can be treated as a fine order under Sec. 207 of the (Act 13 of 1985) A.T. Act. *by*

9. It is a settled law that, repeated representations would not extend the cause of action. Subsequent representations do not save limitation as per the Hon'ble Supreme Court in "S.S.Rathore Vs. State of M.P. (AIR 1990 SC 10)".

10. Since we are disposing of the application at the admission stage itself on the point of limitation, we are not going into the merits of the case.

11. In the result, the application is dismissed at the admission stage itself with no order as to costs.

R. Balasubramanian
(R. BALASUBRAMANIAN)

Member (Admn.)

C.J. Roy
(C.J. ROY)

Member (Judl.)

Dated: 30th October, 1992.

4
Deputy Registrar (Admn.)

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O.A. 7/11/92

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER (J)

Dated: 30/11/1992

ORDER/JUDGMENT

O.A./C.A./M.A. No.

in

O.A. No.

7/11/92

T.A. No.

(W.P. No.)

Admitted and interim directions issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

pvm.

