

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 9.4.2001

OA No.48/94 with MA No.63/94

Badri Lal Meena s/o Shri Ramnath Meena r/o 213, Vivek Vihar, New Sanganer Road, Jaipur.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of Home Affairs, Department of Personnel and Administrative Reforms, New Delhi.
2. The Union Public Service Commission through its Secretary, Dholpur House, New Delhi.

.. Respondents

Mr. S.K.Jain, counsel for the applicant

Mr. S.S.Hasan, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. N.P. Nawani, Administrative Member

Order

Per Hon'ble Mr. N.P. NAWANI, Administrative Member

The applicant, Shri Badri Lal Meena, has approached this Tribunal ~~through this~~ OA, being aggrieved that he was not appointed in India Police Service consequent to his selection by Union Public Service Commission (for short UPSC) for appointment in Group 'A' / Indian Police Service on the basis of results of the Civil Services Examination, 1981 as conveyed by the UPSC vide their letter dated 28/30 August, 1982 (Ann.A1). The applicant was appointed in the Indian Ordinance Factories Service (for short IOFS) vide Government of India, Ministry of Defence letter of 24.1.1983 (Ann.A4) which he joined and in which he is still serving. The cause of action/grievance for the applicant, therefore, appears to have arisen as early as 24.1.1983.

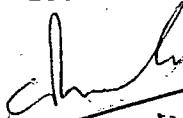


2. We have heard the learned counsel for the parties and have also examined the material on record.

3. It was contended on behalf of the applicant that he had given his preference for Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Forest Service (IFS) only and, therefore, he had to be considered for IPS and could not have been offered appointment in IOFS as per the Notification No. 13018/10/85 - AIS (I) dated 7.12.1981 issued by the Ministry of Personnel etc. He, therefore, wants this Tribunal to issue a direction to the respondents to make appointment of the applicant in IPS, IAS or IFS and consider his seniority w.e.f. the dates his juniors in the merit list were so appointed.

4. The respondents have opposed the relief sought by the applicant. They had not raised the issue of the OA being barred by limitation in their reply but the learned counsel for the respondents did seek dismissal of the OA on the ground of it being badly barred by limitation. The learned counsel for the applicant raised a question whether the respondents could be allowed to raise the question of limitation now having not raised such a plea in their reply. However, it is a well settled position in law that the Tribunal can itself examine whether any OA is barred by limitation. We would, therefore, first like to consider this issue.

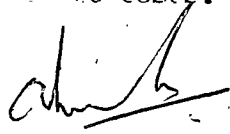
5. The grievance of the applicant arose on 24.1.1983 on issuance of Ann.A4. He willingly joined IOFS on the strength of such offer and continues to work in that service. The OA was filed on 3.1.1994 i.e. after more than 11 years. As per the provisions contained in Section 21 of the Administrative Tribunals Act, he should have filed the OA within one year from the date of such an order i.e. by 23.1.1984 ~~or within 6 months of an appeal or~~




representation having been made with no formal order having been passed thereon. Thus, undisputedly, the OA is hopelessly barred by limitation, as per provisions specifically incorporated in Section 21 of the Administrative Tribunals Act. The law as has developed, requires Courts/Tribunals to apply the provisions regarding limitation with full vigour. Hon'ble the Supreme Court of India in its judgment in the case of Harnam Singh v. Union of India and ors., 1993 (24) ATC SC 92 has held that the "Law of limitation to be applied with all its vigour and the Tribunal cannot come to the rescue of those who sleep over and allow limitation to expire". In a recent judgment of the Apex Court in the case of Delhi Administration v. Hira Lal and ors., JT 1999 (10) SC 128, the Apex Court refused to condone delay where the cause of action had arisen in 1967 and the Writ was filed in 1978, notwithstanding the fact the similarly placed persons had filed Writs in 1983 and 1985. A catena of judgments, including the abovementioned two in order to illustrate, have settled the law and the Courts/Tribunals have to apply the law as mandated by the Apex Court. The applicant has also filed a Misc. Application No.63/94 for condonation of delay. The reasons given in the Misc. Application are not convincing in view of the settled legal position, as mentioned above, and the Misc. Application is dismissed.

6. In view of the settled position in law as discussed above, we have no option but to hold that the OA is hopelessly barred by limitation and accordingly deserves to be dismissed in limine on that count alone. We, therefore, pass the following order:-

The OA is dismissed and in the circumstances with no order as to costs.


(N.P. NAWANI)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman