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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.54/96

Date of order: 16/8/2000

Brij Mohan Malav, S/o Shri Nathu Lalji Malav, R/o J-5, Jawahar Nagar, Talwandi, Kota.

...Applicant.

Vs.

1. Union of India through Secretary, Deptt. of Atomic Energy, Chhatrapati Shivaji Maharaj Marg, Bombay.
2. The Secretary, Govt of India, Deptt. of Atomic Energy, Anushakti Bhawan, CSM Marg, Bombay.
3. Chief Project Engineer/Chief Supdt. Rajasthan Atomic Power Station (Unit 1 & 2) Plant Site, Anushakti, Kota.

...Respondents.

Applicant present in person

Mr. Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

Hon'ble Mr. H.F. Nawani, Administrative Member.

PER HON'BLE MR. S.K. AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to quash and set aside the impugned order of removal dated 2.5.83 (Annex.A1) issued by Chief Project Engineer, Respondent No.3, with all consequential benefits.

2. In brief facts of the case as stated by the applicant are that he was appointed as Scientific Assistant 'B' in O&M Section under respondent No.3 and joined on the post on 13.8.70. Thereafter he was promoted to the post of Scientific Assistant-3 and Scientific Officer/Engineer 'SE'I and was confirmed on the post. It is stated that he was served with a charge sheet on 20.7.82. The applicant submitted his written statement of defence. Thereafter, the Enquiry Officer was appointed who fixed the enquiry in the month of March 93. It is stated that the applicant was pressurised to admit the charges and accordingly he submitted a letter admitting the charges without any condition but respondent No.3 passed the impugned order dated 2.5.83, imposing penalty of removal from service. It is stated that the applicant filed a revision petition before respondent No.2 on 27.4.94 but the same was rejected on the ground that it was time barred vide order dated 31.5.95. It is also stated that the applicant submitted his resignation but he has not been communicated whether his resignation was accepted or not. Therefore, issuing of charge sheet in the pretext of resignation and conducting enquiry thereon was in violation of the Rules. Therefore, the applicant filed the O.A for the relief as mentioned above.



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3. Reply was filed. In the reply, it is stated that the applicant was removed from service on 2.5.83 after conclusion of disciplinary proceedings against him. It is also stated that a revision petition was preferred by the applicant under Rule 29 of the CCS(OCA) Rules 1965, in the year 1994 i.e. after lapse of 11 years, which was dismissed by the respondents considering it as time barred. It is emphasised in the reply that the applicant was removed from service vide order dated 2.5.83 on the basis of unequivocal acceptance of the charges. Therefore, the prayer of the applicant for quashing and setting aside the order of removal dated 2.5.83 is hopelessly barred by limitation. Therefore, the O.A. filed by the applicant deserves to be dismissed.

4. Heard the applicant and the learned counsel for the respondents and perused the whole record.

5. Admittedly, the applicant in the O.A. has challenged the order of removal from service dated 2.5.83 in the year 1995, after a period of 13 years. Merely that the applicant has filed a revision in the year 1994 under Rule 29 of the CCS(OCA) Rules, 1965, and the same was dismissed as being barred by limitation in the year 1995, does not confer any limitation upon the applicant to challenge the order dated 2.5.83.

6. The applicant during the course of arguments has reiterated that Hon'ble Supreme Court and High Courts have taken lenient view in the matters of limitation and he has referred the following judgments:

- (i) AIR 1997 SC 3588, P.C.Sharma & Ors Vs. UOI & Ors.
- (ii) 1998 ACJ 1361, Ravi Namadev Bavale Vs. Kittaswami & Ors.
- iii) (1979)(1) SLR 757, Madras Port Trust Vs. Hymanshu International.

7. On the other hand, the learned counsel for the respondents has contended that this O.A. is hopelessly barred by limitation. The revision petition filed by the applicant under Rule 29 of the CCS(OCA) Rules, 65, was not maintainable after a period of 11 years and the same was dismissed as being barred by limitation. Therefore, the prayer of the applicant for setting aside the impugned order of removal from service is barred by limitation and on this ground alone this O.A. should be dismissed.

8. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

9. In Ehoop Singh Vs. UOI, AIR 1992 SC 1414, it was held by Hon'ble Supreme Court that 'it is expected of the Govt servant who has legitimate claim to approach the court for the relief he seeks within a reasonable period. This is necessary to avoid dislocating the administrative set up. The impact on the administrative set up and on other employee is strong reason the nonconsideration of stale claim.'

10. In U.T.Damen & Deav & Ors Vs. R.E.Valanda, 1995(1) SCC (L&S) 205, Hon'ble Supreme Court held that 'Tribunal fell in patent error in

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brushing aside the question of limitation by observing that the respondents has been making representation from time to time and as such the limitation would not come in his way.'

11. In Sukhmander Singh Vs. State of Punjab, 2000(1) S.C.Services Law Judgments, 283, it was held by Hon'ble Supreme Court that the suit challenging the impugned order of termination filed after a period of 3 years is held to be barred by limitation. The same view was reiterated by Hon'ble Supreme Court in Ramesh Chand Sharma etc. Vs. Udhham Singh Kamal & Ors, 1999(5) SLR 654.

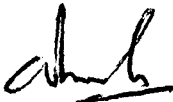
12. The main purpose of limitation provided under Sec.21 of the Administrative Tribunals Act, 1985, that the Govt servant who has legitimate claim should immediately agitate for the same against the adverse order against him and on getting the final order or within a period of one year after the lapse of 6 months from the date of representation to which no reply has been received, he must approach the Tribunal for redressal of his grievance.

13. In the instant case, the applicant was admittedly removed from service vide order dated 2.5.83 after holding an enquiry against him and in the enquiry he has admitted the charges levelled against him. The applicant is expected to be conscious being a Scientist that the order passed by the disciplinary authority was appellable but he did not like to file any appeal against the order of removal and it is only in the year 1994 he chosen to file a revision under Rule 29 of the CCS(CCA) Rules, 1965, which was ultimately dismissed as barred by limitation.

14. In our considered view in the facts and circumstances of the case and settled legal position, the claim of the applicant is hopelessly barred by limitation and the legal citation as referred by the applicant are distinguishable and does not help the applicant in any way in the facts and circumstances of the case.

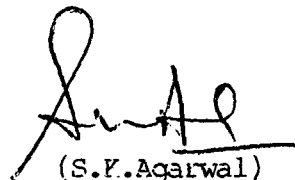
15. We, therefore, dismiss the O.A as hopelessly barred by limitation at the stage of admission.

16. No order as to costs.



(N.P.Nawani)

Member (A).



(S.V.Agarwal)

Member (J).