

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.122/2001

Date of order: 5/10/2001

Hemant Pareek, S/o Sh.Chandra Kant Pareek, R/o House
No.2066, Ram Bhawan, Nahargarh Road, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Mini. of Communication, Deptt.of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Sr.Supdt of Post Offices, Jaipur City Division, Jaipur.

...Respondents.

Mr.R.P.Pareek : Counsel for applicant

Mr.N.C.Goyal : for respondents.

CORAM:

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

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

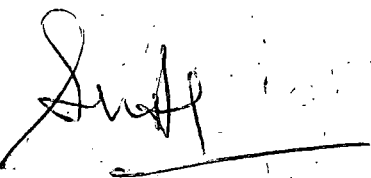
In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the order Annx.A1 and to direct the respondents to grant pension and pensionary benefits w.e.f. 1.5.97.

2. Facts of the case as stated by the applicant are that the applicant after serving the department for more than 16 years, tendered his resignation on 27.3.97 to be effective from 1.5.97 which was accepted by the respondents' department vide order dated 29.4.97. It is stated that the applicant thereafter represented the department for pension/pensionary benefits but the department has refused the same vide the impugned order dated 7.11.2000. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that at the request of the applicant, the resignation as submitted by him was accepted vide order dated 29.4.97 effective from 1.5.97 and the applicant was relieved on 30.4.97 (afternoon). It is stated that after 3 years and 5 months, the applicant submitted one application dated 29.9.2000 to the respondents department to allow him pension and other pensionary benefits but as per rule 26 and Rule 49(a) of CCS(Pension) Rules, 1972, the applicant was not entitled to pension and other pensionary benefits, therefore, the applicant was informed vide letter dated 7.11.2000. It is also stated that the applicant has resigned from service after rendering 15 years 11 months & 26 days qualifying service and he had not completed 20 years of qualifying service, therefore, the applicant is not entitled for pension and pensionary benefits as per rules. Hence, the applicant has no case.

4. Heard the learned counsel for the parties and also perused the whole record.

5. It is an admitted fact that the applicant was appointed as Postal Assistant in the year 1981 and he was made quasi-permanent vide order dated 18.6.84. It is also an admitted fact that resignation submitted by the applicant was accepted vide order dated 29.4.97 and the applicant was relieved in the after-noon of 30.4.97. It is also an admitted fact that the applicant submitted an application dated 29.9.2000 to the department to allow him pension and other benefits meaning thereby, the applicant submitted the application for pension and other benefits after 3 years 5 months from the date of passing the order regarding acceptance of resignation of the applicant. Hence, this O.A



filed by the applicant appears to be hopelessly barred by limitation.

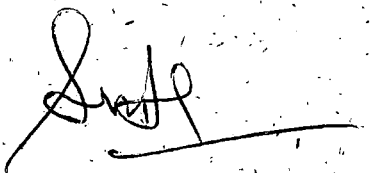
6. Section 21 of the Administrative Tribunals Act provides that the government servant who has legitimate claim should immediately agitate for the same against the adverse order against him and on getting the final order or within a period of one year after the lapse of 6 months from the date of representation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

7. In S.S.Rathore Vs. State of M.P., AIR 1990 SC, it has been made very clear that representations do not extend the period of limitation.

8. In Bhoop Singh Vs. Union of India, 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 employees is strong reason the consideration of stale claim.

9. In U.T.Daman & Deu & Ors Vs. R.K.Valand, 1996 (1) SCC (L&S) 205 Hon'ble Supreme Court held that the Tribunal fell in patent error in 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.

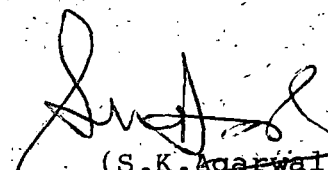
10. On the basis of settled legal position and facts and circumstances of this case, I am of the considered opinion that this O.A. is barred by limitation and can be dismissed on this count alone.



11. The counsel for the applicant has based his claim on the basis of the decisions given in J.K.Cotton Spg.&Wvg. Mills Co.Ltd Vs. State of U.P & Ors, AIR 1990 SC 1808 and A.P.Shukla Vs. UOI & Ors, 1996(2) ATJ 157. I have perused these two decisions and looking to the facts and circumstances of these cases, the case of the applicant is distinguishable and these two citations do not help the applicant in any way.

12. I have also perused the application in original dated 27.3.97 submitted by the applicant by which he requested to accept his resignation because of his domestic/personal reasons and the same was accepted by the department vide its order dated 29.4.97. The applicant never challenged the order dated 29.4.97 before the representation dated 29.9.2000 was filed. The representation so filed by the applicant was considered by the department and they informed the applicant vide the impugned order dated 7.11.2000. In my opinion, this O.A appears to be hopelessly barred by limitation and even on merits, the applicant has no case. As the applicant tendered his resignation which was duly accepted by the competent authority and the applicant has not completed the qualifying service of 20 years, therefore, in view of the Pension rules, the applicant is not entitled to any pension/pensionary benefits and in no case the letter dated 27.3.97 at this stage can be considered as voluntary retirement by the applicant. Therefore, in my considered view, the applicant has no case for interference by this Tribunal and this O.A devoid of any merit is liable to be dismissed.

13. I, therefore, dismiss this O.A having no merit with no order as to costs.


(S.K. Agarwal)
Member (J).