

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 405 of 2003

Jabalpur, this the 6th day of August, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member  
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Rafiq-Ul-Ghani S/o late Shri  
Hafiz-Ul-Ghani, aged 71 yrs,  
R/o 4, Budhwara Road, Bhopal.

APPLICANT

(By Advocate - Shri S.K. Pathak)

VERSUS

1. Union of India, through  
the Secretary, Ministry  
of Finance, Deptt. of Revenue,  
North Block, New Delhi.
2. The Chairman, Central Board of  
Direct Taxes, North Block,  
New Delhi.
3. Chief Commissioner of Income  
Tax, Aykar Bhawan, Hoshangabad  
Road, Bhopal (MP)

RESPONDENTS

O R D E R (ORAL)

By J.K. Kaushik, Judicial Member -

Shri Rafiq-Ul-Ghani has filed this Original Application under Section 19 of the Administrative Tribunals Act praying therein that the respondents may be directed to make the payment of arrears of salary with effect from 01.09.1989 to 06.02.1990 for the post of Income Tax Officer.

2. The brief facts of the case are that the applicant had earlier filed an Original Application No. 308/1988, wherein his compulsory retirement order was set-aside. A Misc. Application was also filed in the matter which came on 10/08/1989 to be disposed of with a direction to the respondents to implement the order. It is averred that despite repeated requests the applicant has not been paid the salary for the



period from 01.09.1989 to 06.02.1990. Subsequently, the applicant was retired from service. It is also stated that certain representations have been made in the matter but the same remained undecided. The grounds are inter-mixed with the facts.

3. The Original Application was listed for admission today. We have heard the learned counsel for the applicant and have carefully perused the records of this case.


4. Admittedly the cause of action has arisen in view of the order passed on 10/08/1989. By now 13 years has elapsed. As per Section 21 of the Administrative Tribunals Act the Tribunal can entertain the Original Application filed within a period of one year from the date of passing of the final order. In the present case no explanation of the delay has been given in as much as no Misc. Application for condonation of delay as such has been filed. Otherwise also in view of the verdict of the Constitution Bench of the Hon'ble Supreme Court in the case of S.S. Rathore Versus Union of India reported in AIR 1990 SC Page 10, their Lordships examined Section 20 and Section 21 of the Administrative Tribunal Act and held that Limitation can be extended only when one has availed of all the remedies available to him under the relevant service rules as to redressal of grievances. In an another case of Ramesh Chand Sharma Versus Udhham Singh Kamal and Others reported in 2000 SCC (L&S) 53, the Hon'ble Supreme Court has turned down and quashed the order passed by the Bench of the Tribunal in entertaining an application without there being application for condonation of delay and that was the matter regarding promotion and

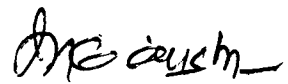
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the delay was for 3 years. It has been very specifically stated therein that unless the delay is condoned the Tribunal cannot proceed the matter on merits.

5. Hence the aforesaid decisions covers the controversy involved in this case in all fours and thus the Original Application is not maintainable as such.

6. In the premises the Original Application is badly hit by the law of limitation and the same deserves to be dismissed on the ground of limitation itself without going into the merits of the case, in limine at admission stage.

  
(Anand Kumar Bhatt)  
Administrative Member

  
(J.K. Kaushik)  
Judicial Member

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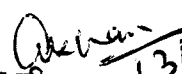
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सूचना एवं आवश्यक कार्यवाही हेतु

  
उप रजिस्ट्रार 13/8/03

Issued  
on 13.8.03  
BS