

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00450/2017

Jabalpur, this Tuesday, the 29th day of January, 2019

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

T. Radhakrishnan (Retd. IAS), aged 64 years, S/o Late Shri C. Thankappan, R/o A-2, Swaroop Nagar, Near Silver Oak Public School, Burari Road, New Delhi 110042 -Applicant

(By Advocate – Shri Sanjay K. Agrawal)

V e r s u s

1. Union of India through its Secretary, Department of Personnel and Training, Ministry of Personnel Public Grievances & Pensions, North Block, New Delhi – 110001.
2. State of Chhattisgarh through its Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur – 492002.
3. State of Chhattisgarh through the Secretary, Revenue and Disaster Management Department, Mantralaya, Mahanadi Bhawan, New Raipur – 492002.
4. State of Chhattisgarh through the Secretary, Commercial Taxes Department, Mantralaya, Mahanadi Bhawan, New Raipur – 492002.
5. The Chhattisgarh Board of Revenue through the Secretary, Mungeli Naka, Bilaspur – 495001.
6. Smt. Indira Mishra IAS (Retd.), Special Department Enquiry Authority, Room No.20, New Collectorate Parisar, Raipur – 492001

(By Advocate – Shri Ajay Ojha for respondents Nos.2 to 5)

ORDE**By Ramesh Singh Thakur, JM.**

The applicant has filed this Original Application and has sought for the following reliefs:

“8. Relief Sought :

(a) Call for the records leading to the issue of charge-sheet dated 30.12.2014 (Annexure A-16) by the 2nd Respondent.

(b) That this Hon'ble Tribunal may kindly be pleased to issue an order/orders, direction/directions quashing the memo dated 30.12.2014 (Annexure A-16) and the accompanying charge-sheet issued by the 2nd Respondent as arbitrary, illegal and void being full of mala fide and colorable exercise of powers. The Hon'ble may further be pleased to quash the entire Departmental Enquiry proceed the entire Departmental enquiry proceeding initiated by the Respondent authority.

(c) That, the Hon'ble High Court may kindly be pleased to quash the order dated 27.01.2015 (Annexure A-18) whereby the representation of the Applicant has been rejected without application of mind.

(d) That, this Hon'ble Tribunal may kindly be further pleased to quash the order dated 18.05.2015 (Annexure A-24) and order dated 16-3-2016 (Annexure A-31) passed by the 2nd Respondent whereby regular departmental enquiry was ordered appointing Department Enquiry Officer & persecuting Officers in flagrant violation of the provisions contained in the A.I.S. (Discipline & Appeal) Rules, 1969 and the principle laid down by the Hon'ble Supreme Court in State of Punjab vs. V.K. Khanna (AIR 2001 SC 343).

2. The respondents Nos.2 to 5 have raised the preliminary objection regarding maintainability of this O.A on the ground that

the applicant has filed this O.A against the charge-sheet dated 30.12.2014 (Annexure A-16), letter dated 27.01.2015 (Annexure A-18), order dated 18.05.2015 (Annexure A-24) and order dated 16.03.2016 (Annexure A-31).

3. It has been submitted by the respondents that the first order has been passed on 30.12.2014 (Annexure A-16) and thereafter consequential orders have been passed on 27.01.2015 and 18.05.2015 and ultimately final orders have been issued on 16.03.2016, whereas the instant Original Application has been filed on 08.05.2017. Therefore, the O.A is barred by limitation as it is beyond the period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985, without there being any application for condonation of delay.

4. On the other hand, the applicant has filed reply to the preliminary objections raised by the respondents Nos.2 to 5. It has been submitted that through this O.A, the applicant is challenging the chargesheet dated 30.12.2014, as also the consequential orders dated 27.01.2015 (Annexure A-18), order dated 18.05.2015 (Annexure A-24) and order dated 16.03.2016 (Annexure A-31), whereby the representations submitted by the applicant against the impugned chargesheet were rejected and the Inquiry Officer has

been appointed to conduct regular Departmental Enquiry against the applicant. The respondents instead of filing reply on merits, are raising preliminary objections on the ground of limitation and there is no delay in filing the instant Original Application. It has been further submitted by the applicant that the chargesheet is a continuing or recurring cause of action as the same can be challenged at any stage of departmental enquiry.

5. Learned counsel for the applicant in support of his contention, has placed reliance on a decision of Hon'ble Apex Court in the matters of **Ramesh B. Desai and others vs. Bipin Vadilal Mehta and others**, (2006) 5 SCC 638, wherein the Hon'ble Apex Court has held that a plea of limitation cannot be decided as an abstract principle of law divorced from facts as in every case the starting point of limitation has to be ascertained, which is entirely a question of fact. A plea of limitation is a mixed question of law and fact. Therefore, unless it becomes apparent from the reading of the company petition that the same is barred by limitation, the petition cannot be rejected.

6. He has also placed reliance on a decision of Hon'ble Apex Court in the case of **Bengal Waterproof Limited vs. Bombay Waterproof Manufacturing Company and Another**, (1997) 1

SCC 99 and has submitted that the applicant is continuously pursuing his cause against the chargesheet since 2015 and, therefore, there is no delay in filing the instant Original Application.

7. We have heard the learned counsel for the parties and perused the pleadings and documents available on record.

8. Section 21 of the Administrative Tribunals Act, 1985 (for short 'the Act') deals with limitation for filing O.A. before this Tribunal, which reads as under:-

“21. Limitation.- (1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court.

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

9. From perusal of the aforesaid section, it is clear that under the Act, the limitation has been prescribed for filing O.A. before this Tribunal as one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has further been stated that if the application is not filed within time as stipulated in Section 21 of the A.T. Act, then Miscellaneous Application for condonation of delay by explaining delay of each day while filing the Original Application, is required.

10. In the present case, the applicant is challenging the chargesheet dated 30.12.2014. He is further challenging the orders dated 27.01.2015, 18.05.2015 and 16.03.2016. He has filed this O.A on 08.05.2017. Therefore, even taking into account the final

orders dated 16.03.2016 (Annexure A-31), the O.A has been filed after expiry of period of limitation, as prescribed under Section 21 of the Act, without there being any application for condonation of delay.

11. Accordingly, we find that the O.A is barred by limitation and the same is accordingly dismissed.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member