

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

O.A.210/00507/2019

Dated this Friday the 02nd day of August, 2019.

Coram: Dr.Bhagwan Sahai, Member (Administrative)
Ravinder Kaur, Member (Judicial).

Tukaram Vitthal Kashid,
Residing at : Chafodi,
Post: Sawarde Dumala,
Tal.Karveer,
Dist.Kolhapur-416 001.

.. Applicant.

(By Advocate Shri A.V. Shinde).

Versus

1. The General Manager,
Bharat Sanchar Nigam Ltd.,
Khareghat Road,
Ratnagiri - 415 612.

2. Assistant General Manager,
Bharat Sanchar Nigam Ltd.,
Khareghat Road,
Ratnagiri - 415 612.

.. Respondents.

Order reserved on : 26.07.2019

Order delivered on : 02.08.2019.

O R D E R

Per : Dr.Bhagwan Sahai, Member (A).

Shri Tukaram Vitthal Kashid, Sr. Telecom
Office Assistant has filed this O.A. on 12.07.2019
under Section 19 of the Administrative Tribunals
Act, 1985. In this O.A. he is seeking -

(a). quashing and setting aside of order dated
02.01.2003 (Annex-A-1) passed by Disciplinary
Authority, Assistant General Manager (Adm), BSNL,
Ratnagiri imposing on him penalty of reduction to
a lower stage in the time scale of pay for three

years, with no increments of pay during that period and after expiry of such period the reduction to have the effect of postponing future increments of his pay; order dated 13.09.2004 (Annex-A-2) passed by the Appellate Authority, Dy.General Manager, BSNL, Ratnagiri confirming the punishment order passed by the Disciplinary Authority; and order dated 07.01.2006 passed by the Asstt. General Manager (Admn), BSNL, Ratnagiri regularising his period of suspension from 12.08.1998 to 30.11.1999 as leave without pay; and

(b). direction to the respondents to restore and fix his pay at Rs.5470/- instead of Rs.4720/- with all consequential benefits including payment of arrears such as D.A., CCA, HRA, Family Planning Incentive increments, etc. He also seeks cost of this O.A. be paid by the respondents.

2. At admission stage of this O.A., we have heard the counsel for the applicant on 26.07.2019. We have perused the O.A. and its annexes.

3. In the case record, we find that against the orders of the Disciplinary Authority and Appellate Authority, the applicant had also submitted a revision application on 29.10.2004 to Chief General Manager, BSNL, Maharashtra Circle, Mumbai. However, a perusal of his revision application reveals that while he denied some of

the issues in a complaint against him, he did not seek setting aside of the orders of the Disciplinary Authority and Appellate Authority. But in the O.A. nothing has been mentioned about any decision on that revision application.

4. In his subsequent representation dated 23.10.2007 submitted to Chief General Manager, BSNL, Maharashtra Circle, Mumbai and General Manager, Telephone, BSNL, Ratnagiri, his prayer was only for refixation of his pay at Rs.5470/- from 01.01.2003, which had been reduced by the punishment order and to treat his period of suspension from 12.08.1998 to 30.11.1999 as on duty with payment of consequential benefits.

5. In the O.A. the applicant has stated that against the orders of the respondents, he had sought redress through BSNL Employees Union dated 09.02.2009 from Assistant Labour Commissioner (Central), Vasco-Da-Gama, Goa, which was accepted as a grievance by the Ministry of Labour, Government of India and was forwarded with a letter of 30.09.2009 for necessary action to the Presiding Officer, Industrial Tribunal and Labour Court, Panaji, Goa. The Industrial Tribunal and Labour Court vide order dated 28.09.2018 concluded that on the matter referred to it, that Tribunal has no jurisdiction, which is available only with

the Administrative Tribunal. Accordingly the reference was answered with reference to the present applicant for want of jurisdiction. In view of this, the applicant has claimed that there is no delay in filing of the present O.A.

6. From perusal of the above details in the O.A., it is clear that the original cause of action for the applicant arose with the order of the Disciplinary Authority dated 02.01.2003. Even his appeal was decided by the Appellate Authority on 13.04.2004. Thereafter even his representation through the Union to Assistant Labour Commissioner (Central), Vasco-Da-Gama, Goa was also made in February, 2009 which led to reference by the Ministry of Labour, Government of India to the Presiding Officer, Industrial Tribunal and Labour Court, Panaji, Goa finally resulting in the impugned order of 28.09.2018. But his subsequent representation to Chief General Manager, BSNL, Mumbai and General Manager, Ratnagiri dated 23.10.2007 and his approaching the Assistant Labour Commissioner (Central), Goa through BSNL Employees Union, Ratnagiri in February, 2009 cannot help him in extending the period of limitation for filing of the present O.A. under the provisions of Administrative Tribunals Act, 1985.

7. As provided under Section 21 of the Administrative Tribunals Act, this Tribunal cannot 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; and

(b) in a case where an appeal or representation 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."

8. Accordingly after passing of the final order by the Appellate Authority on 13.09.2004, the applicant ought to have approached this Tribunal in the form of an O.A. within one year i.e. upto 12.09.2005. However, he has actually filed the present O.A. on 12.07.2019, that means after about 14 years. Therefore, this O.A. is totally time-barred by limitation.

9. In spite of this, the applicant also claims in Para 3 of the O.A. that in view of his pending reference before the Industrial Tribunal

and Labour Court, Panaji, Goa, there is no delay in filing of the present O.A. This is not at all acceptable. Also the applicant has not filed any application for condonation of such long delay of about 14 years. To file the present OA, it was necessary for the applicant to seek condonation of the delay with satisfactory justification and reasons for every day of it which prevented him from approaching this Tribunal in time. However, the applicant has neither filed any application for condoning the long delay nor brought out any such reasons or justification. Hence the O.A. is barred by limitation.

10. Considering these facts of the case, we are convinced that this O.A. is totally barred by limitation, it suffers from delay and laches, and in absence of any satisfactory justification submitted by the applicant for the long delay, the O.A. deserves dismissal at the admission stage itself. It is accordingly dismissed. No costs.

(Ravinder Kaur)
Member (J)

(Dr. Bhagwan Sahai)
Member (A).

H.