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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.513 of 2003

New Delhi, this the 19th day of September, 2003

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Raj Kumari Puri
S/o Late SHri Kishori Lal Puri
Aged 72 years
R/o C-9/100 Yamuna Vihar,
Delhi-110 053.

....Applicant

(By Advocate: Shri A.K. Behera)

Versus

1. Government of NCT of Delhi
Through The Chief Secretary,
Players Building,
Near ITO,
I.P. Extension,
Delhi.
2. The Secretary,
Department of Education,
Government of NCT of Delhi,
Old Secretariat,
Delhi-110 054.
3. The Director of Education,
Government of NCT of Delhi,
Old Sectt., Alipur Road,
Delhi-110 054.

-RESPONDENTS

(By Advocate: Shri Mohit Madan, proxy counsel for
Mrs. Avnish Ahlawat, Counsel)

O R D E R(ORAL)

The applicant has filed this OA against the illegal and arbitrary action of the respondents in not complying with the judgment/order dated 14.12.2000 passed in OA 1349/1997 by this Tribunal though partial compliance of the same is stated to have been made.

2. The facts in brief are that the applicant was working as TGT with the respondents and had gone abroad w.e.f. 23.4.65 and after his return from abroad he rejoined the department on 2.3.1970.



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3. It is further stated that the absence during the intervening period between 23.4.65 and 2.3.70 was condoned and by order dated 8.12.1976 allowing regularisation subject to the condition that he would not be given any benefit or right for selection grade etc. The applicant ultimately superannuated from service on 3.12.1990. However, vide order dated 27.11.1992 the respondents withdrew the condonation granted for the earlier period of absence from 1965-70 on the ground that the condonation had been granted irregularly. The applicant filed an OA No.2204/92 and it was decided that the withdrawal decision taken by the respondents is not tenable and the respondents were to release his pension, gratuity etc. along with interest at the rate of 12% but the respondents is stated to have failed to comply with the said order. However, he has been given various benefits but without taking into account the period between 23.4.65 and 2.3.70 for the purpose of counting of qualifying service.

4. A CP was filed contending that various dues have not been paid by the respondents in pursuance of the order passed in OA 2204/1992. However, the CP was dismissed. Another CP was filed which was dismissed on 26th of September, 1996 so applicant filed another OA 1346/97 on the ground that respondents have not fixed his pension on the basis of 33 years of the qualifying service as they have not taken into account the period of absence between 23.4.65 and 2.3.70. The said OA was allowed and directions were issued to the respondents to fix the pension and other pensionary benefits of the



applicant treating the period between 23.4.65 to 2.3.70 as qualifying service and also to pay him consequential difference along with interest at the rate of 10%.

5. Since that order was also not complied with so applicant filed CP No. 10/2002. But during the pendency of the said CP, the parties entered into compromise wherein it was agreed that the period in dispute would be treated as qualifying service. But with regard to payment of interest, a recommendation would be made to Finance Department for payment of interest so in view of the statement, the CP was withdrawn.

6. After the compromise the respondents implemented the half portion of the compromise as they treated the period as qualifying period but no interest was paid so applicant filed another CP No.62/2003 but the same was dismissed so the applicant has filed now the present OA for full implementation of the compromise/order passed in OA 1349/97 dated 14.12.2000.

7. Respondents have taken an objection that this OA is more in the nature of execution of the order passed in OA No.1349/1997 under Section 27 of the AI Act for which also a limitation period is only one year from the date when the said order had become final so the OA should not have been filed beyond one year as such the present OA is barred by time.

8. I have heard the learned counsel for the parties and gone through the records of the case.



9. The learned counsel for the respondents have referred to a judgment reported in JT 1997 (4) SC 193 entitled as Hukam Raj Khinvsara VS. Union of India and Others wherein it was observed that the final order is to be treated under Section 27 within one year from the date of becoming final. Belated application by applicant after one year without even application for condonation of delay is not maintainable.

10. In the said case the appellant was initially suspended and charge-sheeted and ultimately he was dismissed from service. His order of dismissal was set aside and applicant was reinstated into service. The Tribunal while setting aside the order of dismissal had passed the order that the applicant is entitled to all consequential benefits which he would have earned had he been in service. Though the applicant was reinstated in service, however, he was not paid the consequential benefits. Thereafter he filed the CP which was dismissed. Thereafter he filed another OA for a direction to implement the order dated 13.3.1992. The Tribunal dismissed the same by order dated 16th April, 1996 on the ground that the application of the appellant was barred by limitation.

11. The same is the situation here with the applicants. The OA was allowed on 14.12.2000. CP was dismissed on 15.2.2002. Thereafter he filed another CP No.62/2003 In OA 1349/97 which was dismissed on 10.2.2003. Thereafter he filed the present OA on

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4.3.2003 which is under Section 27 of the AI Act for full implementation of the order of OA 1349/1997 decided on 14.12.2000.

12. As regards the plea of limitation is concerned, the applicant in his rejoinder has denied that the application is barred by time rather made a complaint that he is advancing his money claim and the applicant who is 73 years is put to such a harassment.

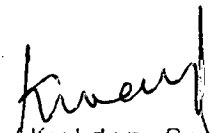
13. I have considered the rival contentions of the parties and gone through the records of the case.

14. At the outset I may mention that the applicant did not file any application for condonation of delay rather made an uncharitable remark on the department for having taken the plea of limitation. It will not be out of place to mention that when the first OA was filed then the applicant had arrived at a compromise with the department by virtue of the said compromise only part of the judgment was complied with, otherwise the department had gone to the High Court in a Writ Petition against the order of the Tribunal also. But it appears that since the applicant was not paid interest as claimed by him, so the applicant has filed the present OA to implement the order of the Tribunal with regard to payment of interest. Since the legitimate claim is with regard to pension calculation of pension, qualifying service has been made and it is only portion of the interest which has not been complied with by the department but for that part the applicant should have come to the court within the prescribed period so that limitation of Section 27 of the



AT Act would not have been attracted and moreover he cannot say that he is 73 years of age and as such limitation will not come in his way. It is also pertinent to mention here that the applicant has also not filed any application for condonation of delay. Thus I am of considered opinion that the OA is quite belated one and have been filed after expiry of limitation period.

15. In view of the judgment given by the Hon'ble Supreme Court, the OA is barred by time and the same has to be dismissed. Accordingly, the OA is dismissed. No costs.


(Kuldip Singh)
Member (J)

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