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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2991/2003

New Delhi, this the 11th day of December, 2003

Hon'ble Shri S.K. Naik, Member(A)

Vidya Nand Sharma
F-48, Lado Sarai, New Delhi .. Applicant
(Applicant in person)

versus

Union of India, through

1. Secretary
DoPT, New Delhi
2. Secretary
Planning Commission
Yojana Bhavan, New Delhi
3. Director of Administration
Planning Commission
Yojana Bhavan, New Delhi
4. Under Secretary/Hon.Secretary
Departmental Canteen
Planning Commission, New Delhi .. Respondents

ORDER(oral)

Applicant has contended that he was appointed as Manager, Departmental Canteen with the respondents and was suspended on 12.8.1980. Subsequently, his services were terminated with effect from 17.10.1981 under Rule 5 of CCS (Temporary Service) Rules, 1965. He represented against the termination of his services as illegal as he was appointed not on temporary but on regular basis. But his representation was not considered favourably which compelled him to approach the Hon'ble High Court of Delhi through CWP 2590/81, in which the High Court held that since several disputed questions of fact arise in this case, the petitioner does not have a cause of action for a suit and the Court declined to interfere under Article 226 of the Constitution of India, leaving the petitioner to seek relief by suit or through any other remedy available to him.

For

2. Thereafter, the applicant approached the Asstt. Labour Commissioner (Central), who vide his order dated 10.4.88 held that the management did not agree for reference of the dispute to Arbitration under the Code of Discipline. Thereafter, he made a representation on 8.12.2002, relying upon the case of Shri Surender Prasad, who was also working in the same department. This representation was also rejected by the respondents on 19.2.2003 stating therein that the matter came up in a writ petition before the Delhi High Court and the Supreme Court where both the Courts declined to interfere in the matter. Applicant, thereafter, again approached the Delhi High Court through CMP No.1221/2003 in CWP No.2590/1981, which was also held by the High Court as not maintainable and stating that it is for the petitioner to challenge the order, if so advised, in appropriate proceedings. It is in this background that the applicant is before this Tribunal seeking (a) payment of subsistence allowance w.e.f. 18.10.1981; (b) reinstatement in service as per the order of award by the Central Govt. Industrial Tribunal in the case of Shri Surender Prasad and (c) set aside the termination order dated 17.10.1981.

3. Applicant has also filed MA for condonation of delay in filing the present OA.

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4. Applicant has sought intervention of the Tribunal primarily on the ground that his services have been illegally terminated treating him to be a temporary government servant, whereas he was appointed on regular basis. He contends that in his case Rule 4 of Departmental Canteen Employees (Recruitment and Conditions of Service) Rules, 1980 would be squarely applicable. The other point pressed by the applicant relates to payment of subsistence allowance. He contends that even though he was suspended on 12.8.1980 no subsistence allowance was ever paid to him. Since he continued to be under suspension facing criminal proceedings, respondents have deprived him of his dues which is causing him great hardship.

5. I have considered the matter carefully. The applicant as per his own pleadings states that the respondents terminated his services on 17th October, 1981. He thereafter filed a representation before the respondents which was rejected. He then filed CWP No.2590/81 before the Delhi High Court, who vide their order dated 28.7.1982, declined to interfere in the matter under Article 226 of the Constitution of India. The applicant however was allowed to seek relief by a suit or through any other remedy available to him. He, thereafter, approached the Assistant Labour Commissioner (Central) who dealt with the representation vide his order dated 10.4.85, concluding therein that the Management did not agree for reference of the dispute before the Arbitration. It appears that thereafter one

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Shri Surender Prasad, who was working in a departmental canteen run by another organisation i.e. Ministry of Urban Development, got a favourable decision against his order of termination and mentioning that as ~~the~~ basis, applicant filed a representation before the Respondents on 8.12.2002. This representation was also rejected by the respondents on 19.2.2003.

6. Applicant thereafter again approached the Delhi High Court through CMP No.1221/2003 which was dismissed by the High Court vide their order dated 7.11.2003 as "not maintainable". It is only now that the applicant has, for the first time, approached this Tribunal, even though the Tribunal has been in existence for more than 18 years by now. If the applicant was a regular government servant and his services were terminated illegally, it was expected of him to have approached the Tribunal ^{immediately} after exhausting the departmental remedy but I find that the applicant did not take any action in the matter until 8.12.2002, when he filed representation before the respondents on the basis of relief which Shri Surender Prasad, a departmental canteen employee in another Ministry, has got. Respondents however rejected his claim. ~~The Applicant~~ further approached the Delhi High Court and then coming to this Tribunal through the present OA will not absolve him of the inordinate delay for which no valid explanation is forthcoming. His contention ~~is~~ that he has been representing/approaching various legal fora without success, as has been held in

Dr. J. S. Verma

several judicial pronouncements, will not extend the period of limitation. ^{2 9 am} fortified in this proposition by the judgement of the Supreme Court in the case of P.K.Ramachandran Vs. State of Kerala JT 1998(7) SC 21.

7. In this view of the matter, the present OA is badly hit by laches and delay and on this ground alone I hold that the same is not maintainable and is dismissed accordingly in limine. No costs.


(S.K. Naik)
Member(A)

/gtv/