

Court No. - 39

Case :- WRIT - A No. - 19175 of 2023

Petitioner :- Brijesh Kumar Mishra

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- In Person

Counsel for Respondent :- A.S.G.I.

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Shri Brijesh Kumar Mishra, petitioner in person and Shri Purnendu Kumar Singh, learned counsel for the Union of India.

2. Present writ petition is directed against the order of the Central Administrative Tribunal, Allahabad Bench, Allahabad passed on M.A. No. 2466 of 2018 in Original Application No. 1130 of 2018 (Brijesh Kumar Mishra Vs. Union of India and 4 others). By that order, the learned Tribunal has rejected the application filed by the petitioner seeking condonation of delay in terms of Section 21(3) of the Administrative Tribunals Act, 1985 (hereinafter referred to as 'the Act').

3. Having heard the petitioner in person as well as learned counsel for the respondent and also having perused the record, we find that there is no dispute to the fact that the petitioner filed representation on 20.10.2016. That representation was never decided by the respondent. Therefore, the limitation to file the Original Application expired on 19.04.2018 in terms of Section 21(1) of the Act. The Original Application filed on 21.10.2018, was clearly barred by about 6 six months.

4. The application seeking condonation of delay filed under Section 21(3) of the Act only seeks to explain that delay for reason of repeated representations filed. In the first place, the details of

such representations are not available. In any case, in view of settled position in law that filing of repeated representations may never confer limitation as held by seven judges bench of the Supreme Court in **S.S. Rathore Vs. State of Madhya Pradesh (1989) 4 SCC 582**. The Supreme Court observed as under :

"21. It is appropriate to notice the provision regarding limitation under Section 21 of the Administrative Tribunals Act. Sub-section (1) has prescribed a period of one year for making of the application and power of condonation of delay of a total period of six months has been vested under sub-section (3). The Civil Court's jurisdiction has been taken away by the Act and, therefore, as far as Government servants are concerned, Article 58 may not be invocable in view of the special limitation. Yet, suits outside the purview of the Administrative Tribunals Act shall continue to be governed by Article 58.

22. It is proper that the position in such cases should be uniform. Therefore, in every such case only when the appeal or representation provided by law is disposed of, cause of action shall first accrue and where such order is not made, on the expiry of six months from the date when the appeal was filed or representation was made, the right to sue shall first accrue. Submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation."

5. In view of the above, there is no error in the reasoning of the learned Tribunal to that extent. Also, there is no room to offer any interference in the matter especially in view of the fact that dispute pertains to one time deduction of Rs. 400/-.

6. As to the other grievance that petitioner seeks to raise that the petitioner is being needlessly harassed for reason of that one time deduction, it is left open to the petitioner to contest the same in accordance with law.

7. Accordingly, the appeal is **dismissed**.

Order Date :- 20.11.2023

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(Shiv Shanker Prasad, J.) (S.D. Singh, J.)