

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12635 of 2014

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Shanker Kumar Verma, S/o Late M.N. Verma, resident of Mohalla:- Jagdeopath, Khajpura,
P.O.- Vetenary College, District- Patna.

.... Petitioner

Versus

1. The Union of India, through the General Manager, E.C. Railway, Hajipur.
2. The General Manager, East Central Railway, Hajipur.
3. The Chief Personnel Officer, E.C. Railway, Hajipur.
4. The Divisional Railway Manager, E.C. Railway, Mughalsarai
5. The Sr. Divisional Personnel Officer, E.C. Railway, Mughalsarai.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gautam Bose, Sr. Advocate.

For the Respondents : Mr. Bijoy Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-04-2016

Heard learned counsel for the petitioner and the respondents.

2. The challenge in the present writ application is to an order dated 09th of May, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as “the Tribunal) in O.A. No. 591 of 2012 filed by the present petitioner claiming balance amount of salary and other allowances for the period 14.11.1996 up to December, 2001 having worked on the post of Station Manager.

3. The learned Tribunal has not entertained the Original Application filed by the petitioner for the reason that it is hopelessly barred by limitation.

4. Learned counsel for the petitioner refers to the representation dated 19.12.2006 and 31.12.2011 (Annexure- 5 and 5/1) to contend that the petitioner has made grievance regarding non-payment of balance amount of salary and other allowances. Thus, the finding of the Tribunal that the claim is barred by limitation is not sustainable. Reference in this connection is made to a Supreme Court

judgment reported as S.R. Bhanrale Vs. Union of India & Ors. – AIR 1997 Supreme Court 27 to contend that the State should not take a plea of bar of limitation.

5. We have heard learned counsel for the petitioner and find no merit in the present writ application. The petitioner is claiming balance amount of salary and other allowances for the period 14.11.1996 up to December, 2001 in an Original Application filed 11 years later. The Administrative Tribunals Act, 1985 has prescribed a period of limitation for invoking the jurisdiction of the Tribunal. The present petition has been filed much beyond the period prescribed under the Act. Therefore, we do not find any error in the order passed by the Tribunal holding that the petition is barred by limitation.

6. Reference to the Supreme Court order in S.R. Bhanrale's case (supra) is not beneficial to the facts of the present case. It was not a case before the Tribunal where there is statutory period of limitation prescribed. Claim of the petitioner is not being resisted by the respondents. The Court is bound to consider the bar of limitation. The claim of the applicant has to be within a period of limitation. Since the claim was raised beyond the period of limitation, therefore, the same has been rightly declined. It may be mentioned that mere submission of successive representation does not confer repeated causes of action. It has been so held in the case of S.R. Rathore Vs. State of Madhya Pradesh A.I.R. 1990 Supreme Court 10 wherein the Court held to the following effect:

“20. We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall

be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.

21. It is appropriate to notice the provision regarding limitation under S. 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 until the appeal or representation provided by a law is disposed of, accrual of cause of action for cause of action shall first arise only when the higher authority makes its order on appeal or representation 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. 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.”

7. In view of the above, we do not find any error in the order passed by the Tribunal. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
N.A.F.R.

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