

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1153-2019 (O/M)
Date of decision : 8.3.2019

V.K. Gautam

..... Petitioner (s)

Versus

rites Ltd. and others

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Piyush Kant Jain, Advocate,
for petitioner.

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KULDIP SINGH, J.

Petitioner has impugned order dated 27.7.2018(Annexure-P-7),
passed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh,
under which his original application has been dismissed, being time barred.

The short facts of case are that petitioner had retired
on 30.9.2015 from RITES Ltd. which is a Government of India Enterprise,
established under the aegis of Indian Railways. He was working as a
Manager in the said establishment. Vide order dated 13.6.2011, penalty of
reduction to lower post was imposed upon him and he was demoted to rank
of Assistant Manager with minimum of the pay scale and his basic pay was
reduced from Rs. 30740/- to Rs. 14880/-. His appeal was dismissed
by respondents on 2.2.2012. Petitioner had challenged said order before
Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

Alongwith original application i.e. OA No. 060/00477/2017, CM No. 060/679/2017 under Section 21 (3) of the Administrative Tribunals Act, 1985, read with Section 151 CPC, seeking condonation of delay in filing the application, was also filed. Subsequently, said application was withdrawn and another application CM No. 060/01120/2017 in OA No. 060/00477/2017 was filed before Central Administrative Tribunal, Chandigarh Bench, Chandigarh.

We have heard learned counsel for petitioner and have also carefully gone through case file.

The learned counsel for petitioner contends that Central Administrative Tribunal, Chandigarh Bench, Chandigarh, considered earlier application i.e. CM No. 060/679/2017, filed in OA No. 0060/00477/2017, which was withdrawn and fresh application has not been considered for condonation of delay, being CM No. 060/01120/2017. However, we have considered said application also for condonation of delay, in which certain grounds have been pleaded for condonation of delay.

The plea of petitioner is that he had filed review application, which was declined on 15.5.2015. His further plea is that Managing Director illegally acted as Disciplinary Authority and the Chairman wrongly assumed the power of Appellate Authority, whereas Managing Director is the Appellate Authority and Chairman is Reviewing Authority, thereby remedy of review was declined to petitioner, to which he was entitled to under Rule 33 of the Rules.

Admittedly, in this case, order of punishment was passed on 13.6.2011. The appeal was dismissed on 2.2.2012. Under Section 21 of Administrative Tribunals Act, 1985, appeal could be filed within one year

from the date on which such final order has been made. Under Section 21 Clause (b) of Administrative Tribunals Act, 1985, where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 of Administrative Tribunals Act, 1985, has been made and a period of six months had expired and without such final order having been made, within one year from the date of expiry of said period of six months, application could be filed within expiry of said period of six months. Admittedly, in this case, said period had expired. As per own showing of petitioner, there was no reviewing authority left as the Chairman had acted as appellate authority. The final order was passed on 2.2.2012, and thereafter, original application was filed in the year 2017 i.e. after five years before Central Administrative Tribunal, Chandigarh Bench, Chandigarh. Petitioner retired from service on 30.9.2015. It appears that when petitioner was near his retirement, he started filing representations for review of order passed by respondents. The Central Administrative Tribunal, Chandigarh Bench, Chandigarh, has rightly observed that repeated representations will not extend period of limitation. The final order was passed in the year 2012 and, therefore, present application, having been filed after five years, was rightly dismissed by Central Administrative Tribunal, Chandigarh Bench, Chandigarh, as time barred. There are no merit in present petition. Accordingly, petition is dismissed.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

8.3.2019
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No