

Supreme Court of India

Hukam Raj Khinvsara vs Union Of India & Ors on 17 March, 1997

Bench: K. Ramaswamy, G.T. Nanavati

PETITIONER:

HUKAM RAJ KHINVSARA

Vs.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT: 17/03/1997

BENCH:

K. RAMASWAMY, G.T. NANAVALTI

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Delay condoned. Leave granted.

We have heard learned counsel on both sides. This appeal, by special leave, arises from the order of the Central Administrative Tribunal, Jodhpur, made on April 16, 1996 in O.A No. 466/94.

The appellant was initially suspended and charge sheet was laid against him on April 29, 1974, His order of dismissal was ultimately set aside and thereafter he was reinstated into the service by the Tribunal's order dated March 13, 1992 in O.A. No. 261/91. It would appear that while setting aside the order of dismissal the Tribunal had passed the order that the appellant was entitled to all consequential benefits which he could have earned had he been in service. since in spite of his representations, he was not given consequential benefits, he filed contempt application of December 11, 1992, which was dismissed by the Tribunal on July 29, 1993. Thereafter, the appellant filed the present O.A. for a direction to implement the order dated March 13, 1992. The Tribunal dismissed the same by the impugned order dated April 16, 1996 on the ground that the application of the appellant was barred by limitation. Thus this appeal by special leave.

The only question is : whether the application seeking implementation of the earlier order of the Tribunal was barred by limitation of the earlier order of the Tribunal was barred by limitation? section 27 of the Administrative Tribunals Act, 1985 (for short, 'the Act') envisages thus:

"27. Execution of orders of a Tribunal.

Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub section (2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

Relevant part to sub section (2) of Section 20 of the Act postulates that:

"(2) for the purposes of sub section (1) of Section 20, a person shall be deemed to have availed of all the remedies availed to him under the relevant service rules as to redressal of grievances,

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance;

Section 21 prescribes limitation in that behalf. Sub section (1) (a) of Section 21 postulates that:

"(1) A Tribunal shall not admit an application.

(a) in a case where a final order such as is mentioned in clause (a) of sub section (2) of Section 20 has been made in connection with the grievance unless the application is made within one year from the date on which such final order has been made."

Thus it could be seen that the final order passed by the Tribunal is executable under Section 27 of the Act within one year from the date of its becoming final. Admittedly, the final order was passed on March 13, 1992. Consequently, the appellant was required to file the execution application within one year from the said date unless the order of the Tribunal was suspended by this Court in a special leave petition/appeal which is not the case herein. Admittedly, the application came to be filed by the appellant on December 13, 1994 which is well beyond one year. Under these circumstances, the Tribunal was right in its conclusion that the application was barred by limitation.

Learned counsel for the appellant contends that the Tribunal would have condoned the delay in filing the application. It is not his case that he made an application for condonation of delay and the Tribunal had rejected the application without examining the grounds for the delay occasioned by him. Under these circumstances, we need not go into further question of refusal to condone the delay by the Tribunal.

The appeal is accordingly dismissed, No costs.