



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4073 of 2019
Decided on : 11.03.2026

The State of HP and Ors.

...Petitioners

Versus

Geeta Devi.

...Respondents.

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the petitioners : Mr. Sidharth Jalta, Deputy Advocate General.

For the respondent(s) : Mr. Ashwani Gupta, Advocate.

G.S. Sandhawalia, Chief Justice (Oral)

By way of the present petition, a challenge has been laid to the order dated 09.04.2019, passed by the HP State Administrative Tribunal, whereby the Original Application was allowed and the period of maternity from 01.07.1996 to 31.12.1996 and illness from 01.01.1998 to 31.07.1998, was deemed to be held in continuous service and directions were given to consider the applicant for conferment of work charge status on completion of 10 year service with all consequential benefits and actual financial benefits were restricted for three years prior to the filing of the Original Application.

2. It is to be noticed that the learned Tribunal has adopted a

¹Whether the reporters of the local papers may be allowed to see the Judgment? Yes

methodology, which cut-short the right, as such, of the appellant-State to even file a reply, by dispensing with the same and taking up Original Application for disposal. The relevant paragraphs of the Tribunal order read as under:-

“Heard Notice.

2. Mr. Narender Singh Thakur, learned Deputy Advocate General waives service of notice on behalf of the respondents.

3. Filing of replies is dispensed with. With the consent of the parties the original application is taken up for disposal at this stage.”

3. We are not in a position to sustain such an action of the Tribunal, as the right to file response by the State and to raise its defence, cannot be curtailed in a manner in which the Tribunal has done, while allowing the OA, which was pending before it and in which notice had been just issued on the said date. It is not disputed that the claim in the OA was regarding the break in service from 01.07.1996 to 31.12.1996 and the second break in service was from 01.01.1998 to 31.07.1998. The OA was dated 24.02.2019, and as per para 5 of the OA, the applicant had declared that the application was within limitation, prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Perusal of the said provision and Section 20 would go on to show that the grievance has to be raised within a period of one year from the date on which the final order has been made. Sub-Section 2

provides that a grievance in respect of which an application is made had arisen by any reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authorities of the Tribunal become exercisable under this Act in the matter to which such order relates. Sub-Clause 3 provides that the application may be admitted after a period of one year specified in Clause-a or Clause-b of sub-Section 1, or within a period of six months in case of Sub-Section 2, if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

5. Section 21 of the said Act starts with the bar to the Tribunal that it should not admit an application. In such circumstances, the petition, which was filed in the year 2019 was on the face of it barred and by taking away the right, as such, to file the reply, the State's interest has been adversely affected. The operation and execution of the order was stayed at the outset by the Coordinate Bench on 10.12.2019.

6. *In S.S. Rathore vs. State of Madhya Pradesh AIR 1990 SC 10* a seven Judge Bench has considered the ambit and scope of Section 21 of the Act which prescribed a period of one year for making of the application and power of condonation of delay within a total period of six months and that the cause of action would be taken to arise when the order of the higher

authority where a statutory remedy is provided entertaining the appeal or representation is made and that repeated representation not provided by law would not govern by the principle and would not be taken into consideration in the matter of fixing limitation. In **Secretary to Government India vs. Shivram Mahadu Gaikwad 1995 Supp (3) SCC 231** the order of discharge dated 07.10.1986 was held to be barred by limitation having been filed in 1990 before the Tribunal. Similarly, in **Dhala Ram vs. Union of India (1997) 1 SCC 201** an application filed rejecting the claim for compassionate appointment in the year 1988 and challenged in the year 1993 was held liable to be dismissed on the ground of limitation by the Apex Court.

7. The law was summarized by a Division Bench of Punjab and Haryana High Court in **Union of India and another vs. Central Administrative Tribunal, Chandigarh (2003) 2 PLR 200** and it was held that the purpose of providing shorter period of limitation under Article 323-A while setting up the Tribunal was that in service disputes there was a specific limitation and resolution of the disputes in the complaint had to be done pertaining to the recruitment and conditions of service and providing speedy remedy to such aggrieved person. It was also noticed that Section 21 contained a *non-obstante* clause that the Tribunal

shall not admit such application and similar provision was also there in Section 20 of the Act. Relevant paras of the said judgment read as under:

“13. Section 20(1) lays down that a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Sub-section (2) of Section 20 declares that for the purposes of Sub-section (1), a person shall be deemed to have availed all the remedies available to him under the relevant service rules as to redressal of grievances if a final order has been made by the 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 and where no final order has been made by the government etc., if a period of six months has elapsed from the date of filing of appeal or making of representation. Section 21(1) declares that the Tribunal shall not admit an application against a final order as is mentioned in Clause (a) of Sub-section (2) of Section 20 unless the same is made within one year from the date of such final order and in the case covered by Clause (b) of Sub-section (2) of Section 20 within a period of one year and six months from the date of filing of appeal or making of representation. Sub-section (2) of Section 21 contains a non-ob-stante clause which was incorporated to obviate unnecessary objection of limitation in respect of order made immediately preceding the date on which power, jurisdiction and authority of the Tribunal became exercisable. It lays down that notwithstanding anything contained in Sub-section (1) where the grievance in respect of which an application is made had arisen by reason of any

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order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under the Act in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application, shall be entertained by the Tribunal if it is filed within the period specified in Clause (a) of Section 21(1) or Clause (b) thereof or within a period of six months from the said date. Sub-section (3) of Section 21 also contains a non-obstante clause. It empowers the Tribunal to admit an application after expiry of the period specified in clauses (a) or (b) of Sub-section (1) or, as the case may be, the period of six months specified in Sub-section (2) if the applicant satisfies that he had sufficient cause for not making the application within such period,

14. The reason for prescription of a shorter period of limitation for filing an application under the Act as compared to the limitation prescribed for filing civil suits is not difficult to fathom. This must have been done by the Parliament keeping in view the object sought to be achieved by enacting special legislation under Article 323A of the Constitution of India to deal with service disputes and complaints of the employees and other aggrieved persons. The main object behind the creation of special adjudicatory forum for resolution of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of union etc. was to provide speedy remedy to the aggrieved persons and also to reduce the burden of regular courts. While doing so, the Legislature was alive to the fact that one of the major causes for declining the efficiency of services was the long pendency of litigation in

the courts relating to service disputes. Therefore, with a view to ensure that such complaints and disputes are adjudicated/resolved expeditiously, limitation of one year only came to be prescribed with a provision for extended period of limitation of one year and six months for those cases in which the aggrieved employee may have made appeal/representation and the same may not have been decided by the concerned authority. If the Legislature had retained the period of limitation prescribed for filing civil suits, the Tribunals constituted under the Act would have been reduced to the level of an ordinary forum for adjudication of service disputes and the purpose sought to be achieved by enacting the special legislation would have been frustrated.”

8. The earlier view authored by Justice G.S. Singhvi as His Lordship then was again followed by his Lordship in **Ramesh Kumar vs. Union of India 2003 4 SCT 816**, which would be applicable in the present facts and circumstances.

9. In such circumstances, we do not find any plausible reason, as such, even to remand the matter for fresh decision, as apparently on the face on the record, the application is barred for the relief, which was sought for and had been filed beyond limitation.

10. A perusal of the petition would go on to show that the State has specifically said that there was never any intimation to the petitioner-Department about her illness after 1998 till her regularization in the year 2017. It is thus apparent that having never agitated for the grievance and having been granted the benefit of regularization in the

year 2017, she is now seeking the benefit of the conferment of work charge status on the completion of 10 years from her initial engagement on 01.01.1993, and therefore, would want regularization also from an earlier date, than one granted in the year 2017.

11. In such circumstances, we are of the considered opinion that the Original Application was barred by limitation and there is not even a whisper in the OA regarding the grant of regularization to the petitioner in 2017. In view of the aforesaid, order dated 09.04.2019, passed by the HP State Administrative Tribunal, is set aside, and the O.A. stands dismissed.

12. Accordingly, the present petition is allowed. Pending miscellaneous application(s), if any, also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

11th March, 2026
(Gaurav Rawat)