
(2012) 09 DEL CK 0219
In the Delhi High Court
Case No : Writ Petition (C) 5761 of 2012

Dharam Vir Singh

APPELLANT

Vs

The municipal Corp. of Delhi

RESPONDENT

Date of Decision : 14-09-2012

Acts Referred:

Administrative Tribunals Act, 1985 — Section 20, 21(1)(a), 21(2), 21(2)(a)

Citation : (2012) 09 DEL CK 0219

Hon'ble Judges : Siddharth Mridul, J; Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Piyush Sharma, for the Appellant; Mini Pushkarna, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J.—The petitioner is aggrieved by the order dated 10.01.2012 passed by the Central Administrative Tribunal,

Principal Bench, New Delhi in O.A. No. 1865/2011 whereby the petitioner's said application was rejected, inter alia, on the ground of limitation.

The petitioner has candidly stated before us that the order that was impugned before the Tribunal was the order dated 24.10.2007 passed by the

appellate authority. However, the learned counsel for the petitioner submitted that initially he had challenged that order by virtue of a writ petition

being WP(C) No. 6300/2008 which was dismissed as withdrawn by the order dated 23.10.2008 wherein the petitioner had informed the learned

Single Judge that he would be filing a statutory appeal. The fact that he had already filed a statutory appeal and that the same had been disposed of

by virtue of the said order dated 24.10.2007 and that there was no provision for second statutory appeal was not disclosed before the learned

Single Judge.

2. Be that as it may, the petitioner, for reasons best known to him, filed a second appeal on 26.10.2008. According to the petitioner, since that

was not heard and disposed of, he filed an application before the Tribunal being O.A. No. 1120/2010 which was disposed of at the admission

stage itself on 08.04.2010, directing the respondent therein to decide the petitioner's "appeal" by passing a reasoned and speaking order within a

period of three months. Before the Tribunal, also, the petitioner had not disclosed that his appeal had already been decided by virtue of the order

dated 24.10.2007. Thereafter the petitioner again filed an application being O.A. No. 3651/2010 which the petitioner sought to withdraw on

15.03.2011 with liberty to file a better application. That so called better application was O.A. No. 1865/2011 in which the impugned order dated

10.01.2012 has been passed whereby the Tribunal has rejected the same, inter alia, on the ground that the application was barred by time.

3. The learned counsel for the petitioner sought to argue the case of the petitioner by referring to the provisions of the Administrative Tribunals Act,

1985 and in particular Section 21(2)(a) thereof. He submitted that the starting point of limitation was not the date of the impugned order of

24.10.2007. This, according to him, was so because the jurisdiction of the Municipal Corporation of Delhi (MCD) stood transferred to the Central

Administrative Tribunal on 15.12.2008. Consequently, the provisions of Section 21(2)(a) would be applicable and not Section 21(1)(a). But, we

do not see as to how that would be of any help to the petitioner. In order to appreciate this it would be necessary to examine the provisions of

Section 21 of the said Act, which, to the extent relevant, read as under:-

21. Limitation.-(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;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of

six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six

months.

(2) Notwithstanding anything contained in sub-section (1), where -

(a) the grievance in respect of which an application is made had arisen by reason of any 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 this Act in respect of the

matter to which such order relates; and

(b) 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 made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a

period of six months from the said date, whichever period expires later.

(3) x x x

4. We may recall that the jurisdiction with regard to the Municipal Corporation of Delhi (MCD) stood transferred to the Central Administrative

Tribunal w.e.f. 15.12.2008. In this context, a plain reading of Section 21(2)(a), which would be applicable to the case of the petitioner, would

indicate that the petitioner had six months time w.e.f. 15.12.2008 to challenge the order dated 24.10.2007 because that was the "later" date as

indicated in Section 21(2), the said order dated 24.10.2007 having been passed within the preceding three years of the date of transfer of

jurisdiction. By virtue of this provision orders passed in the preceding three years could be challenged within six months of the date of transfer of

jurisdiction or within the period stipulated in Section 21(1)(a), whichever period expired later. Had Section 21(2) not been there, the application

would have had to be filed u/s 21(1)(a) within one year from the date of the final order, that is, the appellate order dated 24.10.2007. In other

words, the application would have to be filed before the Tribunal by 24.10.2008. But, because the jurisdiction was transferred on 15.12.2008 the

petitioner would get the benefit of the non-obstante provisions of Section 21(2) (a). And, because of that, he could file the application within a

period of six months from the date of transfer of jurisdiction, that is, within six months from 15.12.2008. Unfortunately for the petitioner the said

original application was filed only in 2011, that is, well beyond the period of limitation which expired on 15.06.2009. In view of the foregoing, we

see no reason to interfere with the impugned order passed by the Tribunal inasmuch as the Tribunal was correct in holding that the petitioner's said original application was barred by time. The writ petition is dismissed. There shall be no order as to costs.