

**(2005) 06 SHI CK 0005**

**In the High Court Of Himachal Pradesh**

**Case No : Civil Write Petition No. 257 of 1998**

Harbans Lal

APPELLANT

Vs

H.P. State Administrative Tribunal and Others

RESPONDENT

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**Date of Decision : 28-06-2005**

**Acts Referred:**

Administrative Tribunals Act, 1985 — Section 20  
Constitution of India, 1950 — Article 226, 227

**Citation : (2005) 3 ShimLC 73**

**Hon'ble Judges : Surjit Singh, J; Lokeshwar Singh Panta, J**

**Bench : Division Bench**

**Advocate : Subhash Sharma, for the Appellant; R.M. Bisht and Vijay Thakur, D.A.G.s, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Surjit Singh, J.—This writ petition under Articles 226/227 of the Constitution of India raises a very short question, viz. whether the limitation prescribed u/s 20 of the Administrative Tribunal Act, 1985 for filing an application can be claimed on the ground that no action has been taken on a second representation made long after the expiry of the time limit for challenging the rejection of the earlier representation or the very action of the Respondent by which the Petitioner feels aggrieved.

2. Facts relevant for deciding the aforesaid question may be noticed. The Petitioner had been working as a Headmaster in Public High School, Pubowal in the then Hoshiarpur District of Punjab State, in the year 1966 when the said school was taken over by the State of Punjab with effect from 28.10.1966 vide letter No. 9929-Pr. 17/53-65. Pr. dated Nil (copy Annexure P-3). The Petitioner was getting basic pay of Rs. 160/- plus dearness allowances at the time of taking over of that school. The services of the Petitioner were also taken over by the Government, but not as the Headmaster, the post he was holding at that time. His services were taken over as a master and he was given the basic pay of Rs.

110/- . No procedure was followed to reduce his rank as also the pay. He appears to have made a representation which was rejected on August 3, 1967 on the ground that his services as Headmaster could not be taken over because he did not fulfil the condition of continuous service of three years in that capacity. Admittedly the Petitioner had been in service for a period of less than three years as Headmaster and that too on ad hoc basis when the school was taken over. After the dismissal of his representation, vide communication dated 3rd August, 1967, the Petitioner took no remedial measures for the redressal of his grievances for more than 22 years. On 20.1.1990 he made another representation, citing the example of a Headmaster of a school which too was taken over and the services of that Headmaster were taken over as Headmaster by the Punjab State, inspite of the fact that Headmaster had also not completed three years of service in that capacity. In the year 1992 he filed an O.A. being O.A. No. 1514/92 before the H.P. State Administrative Tribunal, claiming that his services were required to be taken over as Headmaster. He alleged that his representation (made in January 1990) had been pending with the authorities concerned for more than two years. The Tribunal vide order dated November 4, 1997 dismissed the Original Application on the ground that the same is barred by time.

3. Petitioner's grievance is that when his second representation had been entertained, limitation was required to be computed from the date of such representation.

4. We have heard the learned Counsel for the parties and perused the record.

5. Admitted facts are that the Petitioner was employed in a private school which was taken over by the erstwhile State of Punjab, only a few days before the reorganisation of that State and soon after taking over of the school by the Government, the area in which that school was situated, i.e. Una Tehsil of Hoshiarpur District, came to be allocated to Himachal Pradesh. The Petitioner was admittedly working as Headmaster on ad hoc basis in that school for two years eight months and few days when the school was taken over. The Petitioner wanted his services to be taken over as Headmaster. His request was not acceded to and his services were taken over as a teacher in a lower pay scale. His representation was rejected on 3.8.1967. Thereafter the Petitioner kept sleeping for more than 22 years. In January, 1990, he made another representation alleging that services of a similarly situated person in another school of Punjab had been taken over as Headmaster and that the action of the Respondent, i.e. State of Himachal Pradesh and its functionaries in the Education Department in not taking over his services as Headmaster, was arbitrary and illegal.

It is a well known principle of law of limitation that once the limitation expires, it cannot be revived, atleast by a unilateral act of the party which intends to enforce the lapsed cause of action. In the present case, as a matter of fact the cause of action for the alleged wrongful action of the Respondents accrued to the

writ Petitioner not even when his earlier representation was rejected vide communication dated 3.8.1967 but on the very day of the taking over of his services as a master instead of Headmaster. The claim of the Petitioner is not only hit by limitation but also by inordinate delay of more than 22 years. A three judges Bench of the Hon''ble Supreme Court in B.S. Bajwa and Another Vs. State of Punjab and Others, , has held that the question of seniority should not be reopened after a lapse of reasonable period. In that case the question pertaining to the seniority had been raised more than a decade after the joining of service. The case of the present Petitioner is worse than that of the employee in the case before the Hon''ble Supreme Court. The Petitioner approached the Tribunal more than 25 years after the alleged wrongful act of the Respondents. Further the alleged wrongful act does not amount to continuous wrong though the dispute regarding seniority (which was the subject-matter of the case before the Hon''ble Supreme Court) may be said to be so in some situations.

Keeping in view the above stated position, the writ petition is dismissed. The parties are left to bear their own costs.