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**(2010) 03 AHC CK 0271**

**Allahabad High Court (Lucknow Bench)**

**Case No:** Writ Petition No. 6575 (S/S) of 1999

Ashok Kumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision:** March 26, 2010

**Acts Referred:**

- Industrial Disputes Act, 1947 - Section 2

**Citation:** (2011) 3 AWC 2311

**Hon'ble Judges:** Shabihul Hasnain, J

**Bench:** Single Bench

**Final Decision:** Disposed Of

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### **Judgement**

@JUDGMENTTAG-ORDER

Shabihul Hasnain, J.

Heard Sri Subodh Kumar Verma holding brief of Mr. Abdul Moin for the Petitioner and Sri Syed Hussain for opposite party Nos. 1 to 3.

2. The Petitioner has approached this Court for quashing of the order dated 16.11.1999, passed by Government of India, Ministry of Labour, as contained in Annexure-9 to the writ petition. By this order, the Central Government rejected the Petitioner 's request for referring the dispute between the management of All India Radio, Lucknow and Ashok Kumar, the Petitioner who was a casual labourer. The ground shown, for such a rejection is that the Petitioner approached the Central Government after a lapse of 12 long years. The Petitioner submitted that this order is erroneous and arbitrary inasmuch as the Central Government failed to appreciate the complete facts regarding delay. In fact, the reference letter sent by Assistant Labour Commissioner (Central), Lucknow did not contain enough material so that the Central Government could appreciate the correct facts.

3Petitioner submitted that he had originally filed the writ petition in the year 1990 which was later on dismissed as withdrawn on 21st April, 1992 but with a permission to file Original Application before the Central Administrative Tribunal. In compliance of High Court orders the Petitioner approached the Central Administrative Tribunal on 11.5.1992. The Original Application was accepted by Central Administrative Tribunal on 11.5.1992. Later on, Hon"ble Supreme Court in a case of All India Radio and Ors. v. Santosh Kumar and Anr. 1998 (3) SCC, held that All India Radio and Doordarshan falls within the meaning of Section 2(j) of Industrial Disputes Act. In view of the dictum of Hon"ble Supreme Court, the Original Application of the Petitioner was dismissed by the Central Administrative Tribunal, Allahabad Circuit, Bench, Lucknow after holding that the Tribunal has no jurisdiction to entertain the above application and the matter comes under the Industrial Disputes Act.

4. The case of the Petitioner is that from 1992 to 1998 his case remained pending with the Administrative Tribunal duly constituted by the Constitution of India. Thus, since 1990 to 1998 for eight long years the Petitioner 's case remained pending with judiciary but at a wrong forum. Perhaps this is a case of incorrect legal advice to the Petitioner, Anyhow, the Petitioner not being a very highly educated person cannot be blamed for the delay which has occurred in his case. After dismissal of the Original Application by the Central Administrative Tribunal, the Petitioner approached the Assistant Labour Commissioner (C) with a prayer that the Impugned order of termination be quashed and the opposite parties be directed to reinstate the Petitioner. However, the re-conciliation process failed on 17.5.1999. The Assistant Labour Commissioner (C), Lucknow submitted his report to the Respondent No. 1 vide letter dated 28.5.1999 and finally the Union of India rejected the case of the Petitioner on 16.11.1999.

5. Sri Syed Hussain, appearing for Union of India, has stated that the Central Government has rightly rejected the claim of the Petitioner because the Petitioner has approached the Central Government after 12 years of the cause of action. The period of 12 years is a long time and the action of the Central Government is quite justified in rejecting the case of the Petitioner on the ground of delay.

6. After hearing both the parties the Court comes to the conclusion that the delay of 12 years has been properly explained by the Petitioner. He has been approaching the legal forums which unfortunately could not come to his rescue. He has been vigilant about his rights and cannot be blamed for approaching the Central Government by unpardonable delay. At best this case can be categorized as a case of choosing incorrect legal forum due to incorrect legal advice.

7. Under the circumstances, it appears that the Central Government Was not apprised of the complete facts and the order has been passed cursorily only on the report of the Assistant Labour Commissioner.

8. Accordingly the order dated 16.1.1999 is hereby quashed.

9. The Petitioner is given liberty of approaching the Central Government with fresh representation alongwith copy of this order and the Central Government shall take a decision afresh in the matter of the Petitioner looking into complete facts compassionately and pass reasoned order say within a period of three months from the date a certified copy of the this order alongwith fresh representation is placed before it.

With these observations, the petition is finally disposed of.