

14

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.704/2002

New Delhi, this the 28th day of February, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri C.S. Chadha, Member (A)

Shri D.B. Sayare S/o Shri Bisan Sayyare,
R/o YZ 7, Sarojini Nagar,
New Delhi-23, working as Assistant
News Editor,
All India Radio, New Delhi.Applicant
(None present even on the second call)

Versus

Union of India, through

1. The Secretary,
Ministry of Information &
Broadcasting, Shastri Bhawan,
New Delhi-110001.
2. The Director General,
Dte. of Advertising & Visual
Publicity, P.T.I. Building,
Sansad Marg,
New Delhi-110001.
3. The Director General News,
News Services Division,
All India Radio, New Delhi-1.

....Respondents

(By Advocate : Shri R.P. Aggarwal)

ORDER (Oral)

By Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

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This application has been listed at Serial No.2 under regular matters today. However, none has appeared for the applicant even on the second call and that was the same position on the previous date when one more opportunity was granted to the learned counsel for the applicant to be present in Court if he wanted to be heard. In the circumstances, we proceed in the matter in accordance with the provisions of Rule 15 of the CAT (Procedure) Rules, 1987. Accordingly, we have perused the pleadings and relevant documents on record and heard Shri R.P. Aggarwal, learned counsel for the respondents.

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2. The brief relevant facts of the case are that the applicant, who belongs to the reserved community (Scheduled Caste), was a direct recruit through Union Public Service Commission as a Field Exhibition Officer (FEO) and was appointed on 27.1.1981 in the grade of Rs.650-960. The respondents have the service called the Central Information Service (CIS) which consists of four grades, i.e., IV, III, II and I which was replaced by ^{the} Indian Information Service (IIS) which consists of officers in Group 'A' and Group 'B' services. The Group III grade of CIS was in the pay scale of Rs.650-1200. The learned counsel for respondents has submitted that on receipt of several representations from concerned officers, the respondents had considered induction of some of the cadres like FEO, which the applicant held, for induction in CIS in appropriate grades. To this effect, the Notification dated 8.4.1988 has been issued and published in the Gazette Notification by the respondents which has been annexed by the applicant himself (Annexure A-3). From this Notification, it is noticed that in exercise of the powers conferred under Rule 6 B (2) of the Central Information Service Rules, 1959 as amended from time to time, the President had taken a decision that with respect to the posts mentioned therein, the officers were to officiate in the grade of CIS Groups 'A' and 'B' w.e.f. 28.11.1986 until further orders. It is further relevant to note that the names of officers at Serial Nos.1 to 5 were designated as Inspectors in the

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grade of Rs.2200-4000. On the other hand, it is noticed that persons below Serial Nos.6 to 39, who were in the posts of FEO, Assistant Information Officer and other designations, including the applicant, whose name appears at Serial No.38, were inducted in Grade III Officers in CIS/IIS in the pay scale of Rs.2000-3500, which admittedly is not a replacement scale of Rs.650-950 and was the earlier grade granted to him as FEO before induction by the Presidential Notification dated 8.4.1988. This would definitely mean that the applicant had been upgraded to the next higher pay scale on induction by the Notification dated 8.4.1988 with retrospective effect from 28.11.1986.

3. In pursuance to the aforesaid action taken by the respondents in compliance of the directions of the Tribunal of the Madras Bench in OA Nos.44 & 514 of 1989 decided on 16.11.1989 and Ernakulam Bench in OA No.360 of 1991 decided on 29.6.1992, the respondents have issued OM dated 12.10.1992 fixing the criteria for determining the seniority of the incumbents of the post of FEOs appointed to Grade III of CIS on 28.11.1986. It is also relevant to note that they have issued the seniority list in compliance of the aforesaid judgements of the Tribunal showing the seniority assigned to the officers inducted in Grade III of CIS on 1.1.1986. The applicant's name figures at Serial No.20 below that of Shri S.S. Mishra. The applicant has submitted in the OA that the post of FEO has been included in the CIS but he has been given seniority with effect from the date of his induction,

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i.e., 28.11.1986 and not with effect from the date when he was appointed to the said post, i.e., 26.1.1981, which is his grievance.

4. In the facts and circumstances of the case and also having regard to the aforesaid Notification issued by the respondents dated 8.4.1988, we find no merit in the contentions of the applicant that he alone ought to have been given seniority in Grade III of CIS as FEO with effect from his initial appointment in that post, i.e., 27.1.1981 instead of 28.11.1986. It is relevant to note that at that time he was also in a lower grade of Rs.650-960 to the grade of FEO in CIS, which was in the pay scale of Rs.650-1200. The administrative decision taken by the respondents in the Notification dated 8.4.1988 to induct officers belonging to different grades into CIS w.e.f. 28.11.1986 has meant upgradation of the pay scales in the said posts. Therefore, the applicant's contention that he should be given seniority in CIS from the date of his appointment as FEO on 26.1.1981 is untenable.

5. On perusal of the applicant's contentions in the OA, it is also noticed that he had not challenged the aforesaid Notification dated 8.4.1988. We have also seen the grounds taken by the applicant by challenging the contrary fixation of seniority issued by the respondent dated 12.10.1992. We have also seen the grounds taken by the applicant in MA 1933/2002 praying for condonation of delay in filing the present application. Learned counsel for the respondents has

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submitted that no satisfactory grounds have been shown in the miscellaneous application for condonation of delay in filing the present application and the applicant cannot rely on the judgement of the Madras Bench of the Tribunal in M.M. Pillai Vs. Union of India in OA No.1059/1994 decided on 3.6.1997 or the judgement of the Hon'ble Madras High Court in WP No.3620/1998 decided on 21.4.2001. Learned counsel for the respondents has submitted that in that case, the High Court had also held that the right of the petitioner to count his service from the date of his regular appointment in the post of Exhibition Assistant in Grade IV for fixing his seniority in Grade III had got to be taken into consideration from which post he had been reverted. That is not the position in the present case because the applicant had been appointed as FEO in 1981 by direct recruitment.

6. In the circumstances of the case and taking into consideration the averments made by the applicant in MA 1933/2002 and the judgement of the Hon'ble Supreme Court relied upon by the learned counsel for the respondents in the reply, we find no satisfactory ground to condone the delay in filing the OA under Section 21 (3) of the Administrative Tribunals Act, 1985. Therefore, on this ground alone, the OA is likely to be dismissed as barred by limitation.

7. In the facts and circumstances of the case, we do not find any merit in the application ~~or~~ to hold that the action taken by the respondents is in any way arbitrary or illegal.


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19
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8. The Notification dated 8.4.1988 by which the applicant and other similarly situated persons have been inducted into CIS w.e.f. 28.11.1986 is uniform and there is no good ground to allow the application to permit the applicant ^{alone} to count his seniority as Field Exhibition Officer from the earlier date, i.e., 27.1.1981.

9. In the result, for the reasons given above, OA fails on the grounds of limitation and merits and is dismissed.

No order as to costs.


(C.S. Chadha)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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