

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1883/2001

New Delhi this the 7th day of May, 2002

Hon'ble Shri V.K. Majotra, member (A)
Hon'ble Shri Shanker Raju, Member (J)

Savitri Jaywant, W/o Mr. Vijay Kumar
R/o B-87/4, Dilshad Colony
Delhi-95.

-Applicant

(By Advocate: Shri U. Srivastava)

Versus

Government of NCT, Delhi, through

1. The Secretary,
Govt. of NCT Delhi
5, Sham Nath Marg,
New Delhi.
2. Delhi Administration (Medical & Public
Health Deptt.),
Technical Recruitment Cell
M.A.M. College Building
New Delhi.
3. The Secretary (Medical)
Delhi Administration
Delhi
4. The Medical Superintendent
G.B. Pant Hospital,
New Delhi.

-Respondents

(By Advocate: Shri Harvir Singh)

ORDER (Oral)

Honble Shri V.K. Majotra, Member (A)

The applicant was engaged as a Staff Nurse on ad hoc basis w.e.f. 26.9.1978 and on a regular basis w.e.f. 19.11.1981. Her juniors are receiving higher pay than the applicant due to wrong fixation of her seniority. She has been making representations for revision of her pay which has remained unacted upon. The applicant has sought direction to respondents to revise her pay as also to grant her seniority with effect from the date of her initial appointment i.e. w.e.f. 26.9.1978.

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2. According to the respondents, the applicant was selected for appointment to the post of Staff Nurse on the recommendation of Staff Selection Board in October 1981. The person mentioned as junior than her namely, Mrs. Satya Jatav was selected by the Staff Selection Board on 27.7.79 i.e. earlier than the applicant. Mrs. Satya Jatav was promoted to the post of Nursing Sister in 1983 as she was senior to the applicant and was due for promotion as per the seniority list. Applicant's representation was rejected vide Annexure A-6 dated 7.11.89. Respondents denied that any appeal by the applicant was made to the Lt. Governor. The applicant has also stated that she had submitted several representations on the subject in 1989, 1990 etc. However, she has not submitted any proof of having submitted any appeal to the Lt. Governor against rejection of her representations.

3. We find that whereas applicant's representation for regularisation of her service w.e.f. 1978 and proforma promotion to the post of Nursing Sister from 1984 was rejected on 7.11.1989, she did not resort to legal remedies available to her on rejection of her representation. Even if she made several representations thereafter they would not enlarge the period of limitation as repeated representations, memorials etc. do not extend limitation. The cause of action for the applicant had arisen in 1989 and she has filed the present petition on 26.7.2001 which is in-ordinately delayed.



4. Shri U. Srivastava learned counsel stated that although applicant's representation was rejected vide Annexure A-6 in November 1989, she has been making repeated representations with the respondents without any result. Learned counsel also referred to **The Direct Recruit Class-II Engineering Officers Association and Others Vs. State of Maharashtra & Ors.** JT 1990 (2) SC 264 contending that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

5. Parties have to pursue their rights and remedies promptly and not sleep over their rights. If they choose to sleep on their rights, the court may decline to interfere in its discretionary jurisdiction. Applicant has not filed any application for condonation of delay and has not explained the delay in filing the OA within the time limit. We rely on **Capt. M Paul Anthony Vs. Bharat Gold Mines Ltd. & Anr.** JT 1999 (2) SC 456, **S.S. Rathore Vs. State of M.P.** AIR 1990 SC 10 and **Bhoop Singh Vs. U.O.I & Ors.** 1992 (3) SC 322. Even otherwise the respondents have explained satisfactorily that the so called junior of the applicant Mrs. Satya Jatav was senior to the applicant as she joined the post of Staff Nurse on 1979 on regular basis whereas the applicant joined in 1981. As per **B.J. Bajwa Vs. State of Punjab**, 1998 (2) SCC 523, questions of seniority etc. cannot be reopened after a long lapse of time as to unsettle the settled position.

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6. Having regard to the reasons recorded and discussion made above, we do not find any merit in the OA which is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

cc.