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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.2469/1999

New Delhi this the 11th day of August, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Yashwant Singh (Daftri)  
S/O Bhopal Singh,  
R/O 322 Mohammedpur Govt. Colony,  
R.K.Puram, New Delhi.

... Applicant

( None present )

-versus-

1. Union of India through  
Secretary, Ministry of Urban Affairs  
& Employment, Nirman Bhawan,  
New Delhi.

2. Director General of Works,  
CPWD, Nirman Bhawan,  
New Delhi.

3. Superintending Engineer,  
Co-ordination Circle (Civil),  
CPWD, I.P.Bhawan,  
New Delhi.

... Respondents

O R D E R (ORAL)

Shri V.K.Majotra, AM :

The applicant has challenged order dated 26.5.1993 (Annexure-A) passed by the Superintending Engineer, Co-ordination Circle (Civil), CPWD, New Delhi, alleging that junior persons than the applicant have been promoted. Since no one is present on behalf of the applicant, we proceed to dispose of the OA on merit under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. The applicant joined service as Peon with the respondent department on 11.2.1982. He passed matriculation examination in the year 1984 and was promoted to the post of Daftri vide order dated 4.4.1990 (Annexure-B). According to him, in the Group

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'D' staff seniormost person is promoted to the post of Daftri and as per rules 5% promotions to the post of Lower Division Clerk (LDC) are made on the basis of seniority-cum-fitness from amongst educationally qualified Group 'D' staff. The applicant has claimed that since he is the seniormost Group 'D' staff duly qualified, he was eligible for promotion as LDC, but juniormost Group 'D' staff have been made senior to him and given promotion by order dated 26.5.1993.

3. According to the respondents the O.A. is badly hit by limitation as promotion order dated 26.5.1993 has been challenged much after the expiry of limitation period prescribed in the Administrative Tribunals Act, 1985. The respondents have also contended that the OA is not maintainable because of non-joinder of several persons senior to the applicant whose interest on having been promoted is involved in the matter. The impugned promotion order dated 26.5.1993 has been issued on the basis of seniority of Group 'D' employees under the 5% quota of seniority-cum-fitness. The Group 'D' staff whose names are included in the promotion list are senior to the applicant as on 11.2.1982, i.e., the date of appointment of the applicant. According to the respondents, the impugned order has been issued in accordance with the recruitment rules for the post of LDC and no Daftri senior to those in the promotion list has been left out. The name of the applicant stands at sl. no.51A of the waiting list for consideration of promotion on seniority basis.



4. We have heard the learned counsel for respondents and perused the material available on record. On record, we have MA No.2498/99 for condonation of delay. It is stated that the applicant had filed an OA in the Tribunal but the same was returned on 18.8.1999 for removal of objections; however, the file was misplaced by the counsel and the same was thereafter filed on 17.11.1999 on being traced. The question is that the impugned order was passed on 26.5.1993. Even if the file was returned on 18.8.1999 for removal of objections and was misplaced by the counsel after 18.8.1999 till November, 1999, this does not satisfactorily explain the delay caused in challenging the order dated 26.5.1993 and the case is certainly hit by limitation.

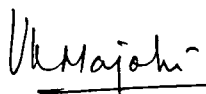
5. We are also in agreement with the learned counsel for the respondents that the persons senior to the applicant have not been made respondents whose interest on having been promoted is involved in the matter.

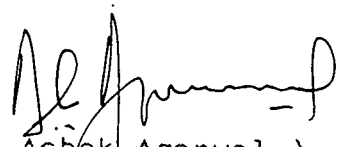
6. Thirdly, we find that in accordance with the recruitment rules for the post of LDC 5% of the vacancies are to be filled on seniority-cum-fitness basis from amongst Group 'D' employees borne on the regular establishment possessing matriculation or equivalent qualification, and 5% (now 10%) of the vacancies on the basis of departmental qualifying examination from amongst Group 'D' employees who possess matriculation qualification and have rendered five years of regular service. The name of the applicant is at sl. no.51A of the list of eligible

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candidates for promotion to the post of LDC. The Group 'D' staff whose names have been included in the list of promotion, their date of seniority is prior to 11.2.1982 which is the date of appointment of the applicant. Thus there cannot be any infirmity in the order of their promotion to the post of LDC, as no Daftri senior to them in the promotion list has been left out. The applicant is at sl. no.51A of the waiting list for consideration of promotion on seniority basis.

7. Having regard to the discussion and reasons given above, we find the OA devoid of merit as also hit by limitation. The same is accordingly dismissed. There shall be no order as to costs.

  
( V. K. Majotra )  
Member (A)

  
( Ashok Agarwal )  
Chairman

/as/