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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 335/99

New Delhi this the 30th day of November 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

Shri K.L. Tyagi
O/S Gde II (Retired)
from M.F. School & Research Centre Meerut
Now R/o C/o SMT. Vineeta Tyagi SI (Delhi Police)
Type III/15 P.S. Preet Vihar Complex,
New Delhi.

...Applicant

(By Advocate: Shri V.P.S. Tyagi)

Versus

1. Union of India through
Secretary,
Ministry of Defence,
New Delhi.
2. The QMG, QMGs Branch AHQ DHQ PO New Delhi.
3. The Deputy Director General,
Military Farms, QMGs Branch,
AHQ DHQ PO New Delhi.
4. The Commandant Military Farms School and
Research Centre, Meerut cantt.
5. The O I/C Military Farms Records,
Delhi Cantt.

...Respondents

(By Advocate: Shri A.K. Bhardwaj)

ORDER (Oral)

By Hon'ble Shri R.K. Ahooja, Member (A)

The applicant who retired on attaining the age of superannuation on 31.8.96 is aggrieved by the decision of the respondents in not antedating his promotion from the UDC's grade to office Superintendent grade-II from 1.1.92. The respondents in their reply have raised a preliminary objection that the OA is barred by limitation.

Ob

2. We have heard the counsel. The facts of the case are that the applicant while working as UDC at Military Farms, Meerut received an order of promotion on 22.8.92. The order stipulated that his promotion will take effect from the date he joined the military Farms Records Delhi Cantt. The applicant case is that despite his request the senior officer at Military Farms Meerut did not relieve him and ultimately he was able to join at Military Farms Records Delhi Cantt only on 30.9.93. On that basis his promotion was delayed from 22.8.92 to 30.9.93. The applicant had sought his promotion in-situ in Military Farms Meerut. He made repeated representations by the letter dated 30.3.98 (Annexure A-1). These representations were however rejected.

3. Shri Tyagi learned counsel for the applicant contends that the application is not time barred for two reasons. Firstly, he points out that his last representation had been rejected by the letter dated 30.3.98 (Annexure A-1). Secondly he contends that his plea is for proper fixation of his pay and consequently his pension; or correct fixation of his seniority from 22.8.92 will have recurring effect on his subsequent pay as well as on his pension. The applicant has thus, according to the learned counsel, a recurring cause of action. Therefore, no limitation would apply.

4. We have carefully considered the above contentions. The letter dated 30.3.98 (Annexure A-1) we find is not a decision on merit on his


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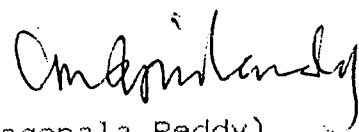
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representation. In fact all that it says is that a photocopy of the records letter dated 14.10.96 is enclosed for information of the applicant. A copy of that letter is at Annexure A-2. This letter dated 19.10.96 stated that the two applications filed by the applicant for antedating his promotion had been rejected. Therefore the cause of action arose in 1996 when the letter dated 19.10.96 was received by the applicant. The application filed in 1999 is thus beyond the period of limitation.

5. In regard to the 2nd contention of the applicant, we find that the promotion of the applicant in 1993 is a one time measure. It was for the applicant to seek proper remedy in time against his non-promotion from 1992 itself. It may be the consequence of his non-promotion of 1992 has resulted in loss of increment in his pay but that is a consequence of his delayed promotion. Recurring cause of action on account of in-correct fixation of pay would arise only if the same is not fixed in accordance with the rules for pay fixation. Therefore, his delayed promotion does not give him a continue and recurring cause of action in view of the aforesaid reasons.

6. The OA is accordingly dismissed on ground of limitation.


(R.K. Anoja)
Member (A)


(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.