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CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.821 of 1999

New Delhi, this 5th day of December 2000

HON'BLE SHRI KULDIP SINGH, MEMBER(J)
HON'BLE SHRI M.P. SINGH, MEMBER(A)

Naval Kishor
S/o Shri Manglu Ram
R/o Qtr No.5 Type-III
Mayapuri Colony
New Delhi. ...Applicant

(By Advocate: Shri U. Srivastava)

versus

Union of India, through

1. The Secretary
Government of India
Ministry of Urban Affairs & Employment
Nirman Bhawan, New Delhi
2. The Director of Printing Press
Directorate of Printing
Nirman Bhawan, New Delhi.
3. The Manager
Government of India Press
Ring Road, Mayapuri
New Delhi-110064 ... Respondents

(By Advocate: Shri Madhav Panikar)

ORDER(Oral)

Hon'ble Shri Kuldeep Singh, M(J)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 challenging the inaction of the respondents as they are not considering and promoting him as he is working with them since 1961 and he has not been considered for promotion even once. In this connection it is alleged that the inaction on the part of the respondents is illegal, unjust, arbitrary and against the principles of natural justice.

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2. The applicant claims that he was appointed by the respondents on 23.10.1961 as an Assistant Binder. Thereafter he was promoted as Binder Grade-II with effect from 7.9.1966 and subsequently both the said posts were merged and were redesignated as Assistant Binder and he has not been considered for promotion after 1966. He has not been given the proper place in the seniority list due to malafide transfer as he was transferred from Government of India Press Faridabad to the Government of India Press Minto Road, New Delhi at his own request. with effect from 10/20 January 1972 and immediately thereafter he had been transferred to the Government of India Press, Ring road, New Delhi with effect from 14.3.1972. According to him, his transfer from Minto Road to the Government of India Press, Ring road, is illegal, unjust and against the principles of natural justice. He has also claimed that he was not allowed to stay at Minto Road and was transferred to the Government of India Press, Ring Road within a period of two months subject to bottom seniority whereas the transfer should be treated as public interest and not on his own request as he was not allowed to stay at his place of choice.

3. The next contention of the applicant is that even as per the Vth Pay Commission Recommendations he has not been given any

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promotion under the Assured Career Progression (ACP) Scheme. So he has prayed that he should be considered for promotion to the next higher grade and his transfer from the Government of India Press, Faridabad to the Government of India Press, Minto Road should be considered in public interest and seniority should be counted accordingly.

4. The respondents have contested the OA. They have stated that the OA is barred by time. Even otherwise, the Tribunal has no jurisdiction to entertain the present application as his request for assigning him the seniority from his initial date of appointment in the grade was, after careful consideration, rejected in 1975, i.e. much before the coming into existence of the Central Administrative Tribunal and the applicant should have challenged the seniority within preceding three years of coming into the existence of the Tribunal.

5. We have heard the learned counsel for the applicant and the respondents and perused the record.

6. The transfer of the applicant from the Government of India Press, Faridabad to the Government of India Press, Minto Road was at his own request as admitted by him in the OA. So

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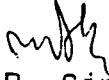
when he was transferred to Minto Road Press he was to be assigned seniority at the bottom. Though after about two months he was transferred to Mayapuri, but he was to carry seniority of Minto Road Press. As such the applicant cannot challenge seniority.

7. As regards the applicant's claim for seniority, even otherwise the seniority matter had been set at rest vide order dated 17.3.1975 when his representation was rejected. Now in the present OA the applicant cannot raise this issue again. He cannot challenge the order dated 17.3.1975 which is barred by jurisdiction since the order was passed much before coming to the existence of the Tribunal and coming into force of the Administrative Tribunals Act. We find that on the basis of the so-called seniority list, the applicant's prayer for promotion cannot be considered.

8. As far as the alternate prayer of the applicant regarding his promotion to the next higher grade under the ACP Scheme is concerned, we direct the respondents to consider his case, if he is found eligible otherwise, for promotion to the next higher grade under the ACP Scheme in accordance with rules, within a period of three months from the date of receipt of a copy of this order. *k*



9. The OA is partly allowed as above. No order as to costs.



(M.P. Singh)
Member(A)



(Kuldip Singh)
Member(J)

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