

Central Administrative Tribunal  
Principal Bench

O.A.No.1786/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 25 day of September, 1998

Shri D.S.Chaudhary  
s/o Shri R.S.Chaudhary  
r/o J-6A, East Vinod Nagar  
Mayur Vihar Ph.II, Delhi-110 091  
and last employed as  
Junior Engineer (JE-1210)  
Cable Planning (Delhi Telephones)  
Eastern Court,  
New Delhi. ... Applicant

(By Shri L.S.Chaudhary, Advocate)

Vs.

Union of India through  
the Chairman  
Telecommunications Commission  
Ministry of Communications  
Department of Telecommunications  
Sanchar Bhawan  
Ashoka Road  
New Delhi - 110 001. ... Respondent

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

The applicant claims that he was appointed as an Engineering Supervisor in Delhi Telephones on 19.6.1973. The said post was subsequently re-designated as Junior Engineer and again as Junior Telecom Officer. The applicant also claims that he was a Graduate Engineer in Electronics and Telecommunications at the time of joining in service. On account of these qualifications he was granted six advance increments but consequent on the recommendations of the Third Pay Commission, the benefit of advance increments was withdrawn. The applicant took voluntary retirement w.e.f. 30.9.1985(AN). Subsequently, the respondents issued an order No.3-9/81-PAT dated 13.5.1986 whereby some of the Junior Engineers appointed with initial start of Rs.240/- per

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month, as was the case in respect of the applicant, were granted two advance increments. The applicant also filed a representation for the same benefit on 28.5.1994. As no reply was received, another representation dated 10.6.1997 was submitted. After considerable internal references between the Chief Manager, IEA and Assistant Director General (PAT) his claim was rejected by the impugned order dated 24.7.1998, Annexure-A1. He has now come before the Tribunal seeking a direction to the respondents to issue proper orders for refixation of the pay in accordance with their own order No.3-9/81-PAT dated 13.5.1986 and to pay him the arrears by way of pay, gratuity, pension, etc.

2. We have heard Shri L.S. Chaudhary, learned counsel for the applicant on the question of limitation. The learned counsel has argued that the applicant having taken voluntary retirement could not be expected to know of the order dated 13.5.1986 in the normal course of business. He further submitted that the order dated 13.5.1986 had been issued on the basis of a Court decision to which he was not a party and none of the applicants therein who were given the benefit belonged to the Delhi Circle where the applicant was posted at the time of his voluntary retirement. Consequently, he was not in a position to know of the Court decision and the subsequent orders granting the benefit of two increments to his colleagues placed. The learned counsel for the applicant also cited Supreme Court's decision in Smt. Prem Devi and Another Vs. Delhi Administration and Others, 1989 Supp(2) Supreme Court Cases 330 wherein it was held that in respect of the cases decided by the Supreme Court it was expected that without resorting to

any of the methods the other employees identically placed would have been given same benefit, thus avoiding not only unnecessary litigation but also waste of time and the movement of files and papers. The learned counsel urged that it was thus a duty enjoined upon the respondents to automatically extend the Court decision to the applicant. On that basis there could be no limitation in respect of the claim of the applicant. 5

3. We have carefully considered the question, and we are of the view that it is not open to the applicant to agitate the matter at this point of time. His claim is based on an order passed by the respondents as far back as in 1986. The mere fact that he filed a representation in 1994 and this representation was disposed of in 1997 by the impugned order does not extend limitation. Unless a statutory period is prescribed, the representation must be made within the limitation period of one year and if the decision thereon is not <sup>taken</sup> the applicant must come before the Tribunal within six months. In this case the first representation itself was filed in 1994, i.e., after a delay of 8 years. The OA has been filed after delay of another four years in 1998. As held by the Supreme Court in Rattan Chandra Samantha's case, JT 1993(3) SC 418 delay deprives the person of remedy available in law; one who loses the remedy by lapse of time also loses his right. It has also been held by the Supreme Court in State of Karnataka Vs. S.M. Kotrayya, 1996(6) SCC 267 that even filing of a case immediately after coming to know that similar relief was granted by Tribunal in another case is not a proper explanation for delay. Explanation must relate to availing the remedy within the limitation period. Similarly in Bhoop Singh Vs. Union

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of India, JT 1992(3) SC 322 it has laid down by the Supreme Court that the judgment and orders of the Court in another cases do not give cause of action; the cause of action has to be reckoned from the actual date.

(b)

4. In view of the law laid down by the Supreme Court, we hold that the applicant's case is now barred by limitation. The OA is accordingly dismissed at the admission stage itself.

*Km*

(K.M. Agarwal)  
Chairman

*R. K. Ahooja*

(R.K. Ahooja)  
Member (A)

/rao/