

Central Administrative Tribunal
Principal Bench

O.A.No.554/98

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

New Delhi, this the 25th day of March, 1998

1. The Central Excise & Customs
Executive Officers' Association
North U.P.Collectorate
Meerut
through its President S.S.Chauhan
s/o Shri H.C.Singh
r/o D-67A Sanjay Nagar
Sector-23, Ghaziabad (UP).
2. Mr. Anil Kumar Mittal
Assistant General Secretary
the Central Excise & Customs
Executive Officers' Association
North U.P.Collectorate
Central Excise Division II
C.G.O.Building
Ghaziabad U.P. ... Applicants

(By Dr.Sumant Bhardwaj, Advocate)

Vs.

1. Union of India through its
Secretary(Revenue)
Ministry of Finance
Department of Revenue
North Block
New Delhi.
2. The Chairman
Central Board of Excise & Customs
North Block
New Delhi.
3. The Member (Personnel)
Central Board of Excise & Customs
North Block
New Delhi. ... Respondents

O R D E R

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

The applicant Association is aggrieved by the various circulars in the Ministry of Finance, Department of Revenue dated 21.10.1993 to 5.12.1995 regarding the reconstitution of Air Customs Pool. They allege that the impugned orders have resulted in discriminatory policy inasmuch as 75% of the posts at the International

Airports are given to the Preventive Officers and Superintendents of Customs and only the remaining 25% posts are given to Inspectors and Superintendents of Central Excise, whereas the cadres of Appraiser/Examiner and Superintendents of Customs/Preventive Officers constitute only 5% and 10% respectively of the strength of the second category. They further allege that the department has been following a discriminatory policy by allocating 75% of the ex-cadre posts at each of the International Airports to a Single Commissionerate Cadre and distributing the remaining 25% posts amongst the remaining cadres. The applicants submit that they had given a number of representations dated 30.1.1994, 20.7.1994, 28.2.1995, 24.2.1996, 17.9.1997 and 12.12.1997 but the same have not been disposed of by the respondents. They have therefore sought a direction to the respondents to dispose of the said representations by a speaking order and to grant liberty to the applicant Association to move the Tribunal again if the same is not done or for redressal of any remaining grievance after the disposed of the said representations.

2. Since the OA assailed an order dated 21.10.1993 and subsequent orders dated 30.3.1994, 31.8.1995, 17.7.1995 as well as 5.12.1995, it appeared to us *prima-facie* that the case was time barred. The learned counsel for the applicant was heard on this point. He submitted that the latest representation is dated 12.12.1997 and relates to discriminatory cadre structures and unfair air pool policy for allocation of posts at International Airports while the earlier representations were on disparities and distortions in deployment of P.O./Superintendents and the failure to follow the DoPT

Instructions for filling deputation posts. He also submitted that a number of applicants could not agitate the matter earlier as they had not become qualified to be considered for Ex-cadre posts till 1997. For these reasons, the learned counsel submitted that the OA was not barred by limitation.

3. We have considered the matter carefully. It has been held by the Supreme Court in S.S.Rathore Vs. State of M.P., AIR 1990 SC 10 that cause of action shall be taken to arise on the date of the order of the higher authority disposing of the appeal or representation. But where no such order is made within six months after making such appeal or representation, the cause of action would arise from the date of expiry of six months. The Hon'ble Supreme Court has also held that repeated unsuccessful representations not provided by law do not enlarge the period of limitation. Even if the latest impugned circular of the Government is taken into account, i.e., the one dated 5.12.1995, the present OA is beyond the limit of one year six months. The perusal of the OA shows that the primary grievance of the applicant is against the policy enunciated by the applicants in their circular dated 21.10.1993. We therefore do not agree that latest representation dated 12.12.1997, Annexure A13(Collectively) is on a different ground. The opening sentence of this representation refers itself that Association's earlier representations between 30.1.1994 to 17.9.1997. Further more, the applicants are members of the Association and therefore, the delay in approaching the Tribunal cannot be condoned on the ground that some of the members were not till now qualified to be considered for the Ex-cadre posts.

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4. In the light of the aforesaid discussion, and considering the ratio of S.S.Rathore (Supra), we find that the present application is squarely time barred. The same is accordingly summarily dismissed at the very threshold.

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(K.M.Agarwal)
Chairman

R.K.Ahooja
(R.K.Ahooja)
Member(A)

/rao/