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Central Administrative Tribunal, Principal Bench

Original Application No.93 of 1998

New Delhi, this the 11th day of September, 2000

Hon'ble Mr. Kuldip Singh, Member (J)  
Hon'ble Mrs. Shanta Shastri, Member (A)

Shri S.C. Pandey aged about 44 years,  
S/o Shri Ram Chander Pandey,  
R/o 240B, Pocket-C  
Mayur Vihar, Phase-II  
Delhi-110091

- Applicant

(By Advocate - Shri Surinder Singh)

Versus

1. Union of India, through

The Director General of Works  
C.P.W.D., Nirman Bhawan,  
New Delhi-11

2. The Secretary  
U.P.S.C.  
Shahjahan Road,  
New Delhi

- Respondents

(By Advocate - Shri R.V. Sinha)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

In this OA, the applicant has prayed for the following reliefs:

- (a) Direct respondents to assign him rightful seniority in accordance with his ranking in LDCE, 1982;
- (b) Direct respondents to interpolate his name at S.No.1260 instead of at S.No.1877 as indicated in supplementary seniority list 1997;
- (c) Any other or further relief which this Hon'ble Tribunal deem fit and proper in the facts and circumstances of the case.

2. The case of the applicant is that sometime in the year 1982, he had appeared in the Limited Departmental Competitive Examination (in short LDCE) for the post of Assistant Engineer (CIVIL) and secured 485 marks. He has

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alleged that his 5 other colleagues who had appeared in the same examination and secured 485 marks, were given promotion but the applicant was not accommodated. It is further pleaded that a similarly situated person, namely, Shri Govind Bhatia in the electrical discipline, who secured one mark lesser than the last promotee, was also given promotion.

3. Learned counsel for the respondents submitted that this O.A. is barred by time and no good ground has been made out by the applicant to condone the delay. He also drew our attention to Annexure A-8 which is at page 40 of the paper book in which it is clearly stated that since all the general vacancies in the AE (CPWD) Examination, 1982 had been filled by the candidates ranking higher than the applicant, the question of recommending his name for appointment did not arise.

4. In reply to this, learned counsel for applicant submitted that applicant's case had been forwarded to the CPWD authorities by the Junior Engineers' Association for considering his case for promotion on the basis of the result of the Examination held in 1982.

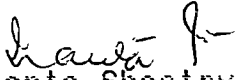
5. Be that as it may, we are not satisfied that this application is within the period of limitation. For this purpose, we shall refer to the application for condonation of delay. In that application, the applicant has simply stated that he is aggrieved by infringement of his fundamental rights as enshrined in Articles 14 and 16 of the Constitution. He has stated that Bar of limitation is not attracted when provisions of fundamental rights are


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Invoked as held by the Tribunal in Mohammad Salim Akhtar Vs. Union of India, 1992 (1) ATJ 202. We are unable to agree with this contention of applicant's counsel since under the AT Act, a person can approach the Tribunal within one year if he is aggrieved by an order and otherwise within 18 months if his representation has not been answered by the department.

6. In this case the cause of action had arisen in the year 1982 when applicant's other colleagues had been given promotion against the examination of 1982 and applicant has filed this O.A. only in the year 1998, which is much beyond time and such a long period of delay cannot be condoned, specially when no good ground has been made out by him in the MA for condonation of delay.

7. In view of the above, this OA is dismissed on the ground of limitation. No costs.

  
( Mrs. Shanta Shastri )  
Member(A)

  
( Kuldip Singh )  
Member(J)

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