

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA No.1392/95

New Delhi this the 15th day of January, 1996.

Hon'ble Sh. N.V. Krishnan, Acting Chairman
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

A.C. Sharma,
Son of Sh. B.R. Sharma,
R/o 2/11, P&T Colony,
Raj Nagar,
Ghaziabad.Applicant

(By Advocate Sh. V.P. Kohli)

Versus

Union of India through:

1. The Post Master General,
Dehra Dun Region,
Dehra Dun-248 001.
2. The Senior Supdt. of Post Offices,
Ghaziabad Division,
Ghaziabad-201 001.
3. The Senior Post Master,
Ghaziabad-201 001.
4. Sh. P.L. Arora,
Assistant Post Master,
Ghaziabad H.O.,
Ghaziabad-201 001.Respondents

(By Advocate Sh. M.K. Gupta)

ORDER (Oral)
(Hon'ble Mr. N.V. Krishnan, Acting Chairman)

The grievance of the applicant is that he has been denied ad hoc promotion as Deputy Post Master, Ghaziabad w.e.f. 22.12.92. As it appeared that an issue of limitation would arise in the case, the applicant has filed MA-2136/95 for condonation of delay.

2. A reply has been filed by the respondents, opposing the MA.

3. We have heard the parties.

4. The brief facts of the case are that respondent No.4 P.L. Arora was appointed on a local arrangement basis as Deputy Post Master, Ghaziabad on two occasions. The first was on 22.12.92. He was again given such an officiating appointment on 5.2.93 when the post of Deputy Post Master, Ghaziabad fell vacant. In regard to the first appointment it appears that the applicant did not make any representation. However, in regard to the second appointment the applicant made a representation (Annexure A-3) on 14.3.93 in which he mentioned that the post has been lying vacant since December, 1992 and a junior official - P.L. Arora - respondent No.4 is officiating since then. He mentioned that as he was senior to respondent No.4, he should be considered for officiating appointment on the said post. There was no reply to that representation. A reminder was issued on 24.12.93. His case was taken up by All India Postal Employees Union on several occasions and as he got no relief, he has filed this OA. In so far as the issue of limitation is concerned, the MA filed by the applicant states that the limitation may be condoned because he has been making representation either directly or through the Union. The Union had taken up the matter with the Post Master General on 29.10.94 (Annexure A-9) which was followed up by a further letter dated 16.11.94. Hence, the question of limitation does not arise. He also relies on the judgement of the Supreme Court in AIR 1987 SC 1353

Collector, Land Acquisition, Anantnag vs. Katiji and the judgement of the Supreme Court in M.R. Gupta vs. Union of India 1995 (2) SC SLJ 337.

5. The prayer made in the OA is for giving ad hoc promotion from 22.12.92. The applicant has also retired from service on 31.12.94.

6. In so far as the prayer for retrospective promotion from 22.12.92 is concerned, we notice that the applicant had not taken any action thereon and *prima facie*, that claim is barred by limitation. It is only with reference to the subsequent promotion that he made representation on 14.7.93. We wanted to know from the learned counsel why limitation should not start from filing of this representation because on that basis, this OA, which has been filed about two years later on 27.7.95, is clearly barred by limitation. It is in this regard that the learned counsel has mentioned the facts, referred to above. We are of the view that when once a representation has been made by the applicant in regard to the grievance which specifically he entertained on that date, limitation starts running from that date. In terms of Section 21 of the Administrative Tribunals Act, 1985 the OA should have been filed on or before 14.1.95, whereas the OA has been filed only on 27.7.95. We are not impressed by the argument that the applicant himself has been pursuing the matter or that the All India Postal Employees Union had specifically taken up his case with the authorities concerned.

Repeated

representations of this nature do not extend the period of limitation, as held by the Supreme Court in S.S. Rathore vs. State of M.P. (AIR 1990 SC 10).

7. In so far as the decision of the Supreme Court in AIR 1987 SC 1353 is concerned, we notice that the applicant was quite conscious of his supersession in the matter of promotion and, therefore, he should have filed the OA within the time specified. It is not as if that the Supreme Court has held in this case that the issue of limitation should not arise at all.

8. 1995 (2) SC SLJ is entirely on a different matter. That decision states that grievance in regard to pay fixation is of a continuing nature as long as the pay is being drawn on the basis of a wrong fixation of pay. That has no application to the present situation. The learned counsel has also mentioned that the cause of action in the case of the applicant had arisen on different dates subsequent to 30.3.93. A regular appointee did not join the post and Sh. P.L. Arora continued to officiate. We are not impressed by this argument either because Sh. P.L. Arora was continuously officiating for one reason or another right from the date he was appointed on 30.3.93. The parties also argued the case on merits. However, as we are of the view that this OA is barred by limitation, we do not consider the case on merits. It is accordingly dismissed. No costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

N.V. Krishnan

(N.V. Krishnan)
Acting Chairman

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