

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.2210/95
MA No.2872/95

New Delhi, this the 5th day of January 1996

Hon'ble Shri N.V.Krishnan, Acting Chairman
Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Shri R.R. Gupta,
s/o Shri Jeewan Ram @ Latoori Mal,
Retd. Head Clerk,
Office of the Chief Commissioner
of Incomatax (Admn.)
C.R. Building,
New Delhi.

R/o 54, Chokhandi Extension,
Tilak Nagar,
New Delhi.

... Applicant.

By Advocate: Shri D.S. Jagotra
Vs.

Union of India
through

1. The Secretary,
Govt. of India,
Ministry of Finance,
New Delhi.

2. The Chief Commissioner of Incomatax (Admn.)
C.R. Building,
Mathura Road,
New Delhi.

... Respondents

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

This application has been filed under section 19 of the Administrative Tribunal Act, 1985 for a direction to the respondents to apply and extend the benefit of the ratio of the judgement in Parmanand Mittal Vs. UOI & ors. (OA No.80/90 decided on 23.12.94). The applicant has also prayed for direction to revise his eligibility for promotion as UDC from the date of his passing the UDC test in 1986 and other consequential benefits including arrears of pay and promotions flowing from it.

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2. The brief facts of the case are that the applicant was appointed as LDC in the office of the respondents on 20.9.58. He states that he passed the departmental test for promotion as UDC in November 1966 and was appointed as UDC on 8.9.69, though he should have been promoted in 1967. He further states that he was confirmed as UDC with effect from 1.8.78, though many other UDCs who had passed the departmental examination alongwith him were confirmed much earlier.

3. The applicant claims that he came to know after much delay that his promotion to the next higher rank of UDC and Head Clerk/Supervisor was delayed because of the unprincipled policy of the respondents. He was ultimately promoted as Head Clerk with effect from 10.7.90 and he has since retired on 31.7.90. He states that some of his colleagues who were also UDCs being aggrieved by the wrong fixation of seniority had moved the Tribunal and obtained favourable orders from the respondents in 1991 (Annexure A-3). He claims that since his case was also similar to those of others he had presumed that the benefits will be extended to him. He has stated that he submitted the detailed representation on 25.7.91 (Annexure A 4) but no reply was given to this representation. He also relies on the judgement in P. Mittal's case (supra) that seniority for purposes of promotion is to be determined

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on the basis of passing the departmental examination and not from the date of confirmation. He further states that he submitted another representation in July 1995 (Annexure A-6) claiming re-fixation of his seniority in accordance with the date of his confirmation with consequential benefits as awarded by the Tribunal in the other case. Since no reply had been given, hence this O.A.

4. He has also filed M.A. No. 2872/95 for condonation of delay. In this application he has stated that since he is chronically ill and was unable to move about he could not file the application earlier. The other ground he has stated is that ^{since} several other colleagues have been granted relief other than those who approached the Tribunal, he should also be given the same benefits. By further amendment application he has again reiterated the facts given in the MA and stated that since in other cases persons junior to him have been granted promotion and consequential benefits from the date of passing the departmental examination he should also be given the same benefits of promotion and arrears and the delay condoned in filing this application, as he is retired and invalid person.

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5. We have considered the application, the M.A. for condonation of delay and the arguments of Shri D.S. Jagotra, counsel for the applicant.

6. As is evident from the facts given above, the grievance of the applicant is that he should have been promoted as UDC from the date of his passing the departmental examination in 1967. In other words the cause of action in this case has arisen about 28 years back. The applicant further submits that although he had been confirmed as UDC with effect from 1.8.78 many of his juniors have been confirmed much earlier in 1972/1973 which averment is vague as neither the names of the junior or other particulars have been furnished. It is also clear that the applicant has himself not cared to even make a representation about his grievance to the respondents earlier than 1990 (Annexure A-2) and that this application is mainly based on the fact that some reliefs have been granted to the applicant, Shri Parmanand Mittal, in A.A. No.80/90. Therefore, this application, looked at any angle, is clearly barred by limitation, as the applicant has not approached the Tribunal within any reasonable time. This itself is a ground to refuse relief to the applicant, irrespective of the merit of his claim as held in Bhup Singh Vs. UOI & Ors (Jt 1992 (3) SC 322). It is settled law that if a party chooses to sleep over his rights and remedies for an inordinate long time, the court may well decline to choose to interfere in the matter in exercise of its discretionary jurisdiction (Ex. Captain Harish Uppal Vs. UOI & Ors - Jt 1994 (3) SC 126, Rattam Chandra Sammons Vs. Union of India & ors. JT 1993(3) SC 418). In the present case

not only is the applicant's grievance that he had not been given his due promotion from the date of his passing the departmental examination in 1967 barred by limitation, having regard to the provisions of section 21(2) of the Administrative Tribunal Act, 1985, it is also clearly barred by jurisdiction, as the cause of action has arisen much more than 3 years proceeding the constitution of this Tribunal on 1.11.1982. The reliance placed by the applicant on the judgment delivered on 23.12. 1994 in Permanand Mittal's case is also misconceived. It has also been laid down by the Hon'ble Supreme Court in Bhoop Singh's case (supra) that the judgments and orders of the court in other cases do not give a fresh cause of action to the aggrieved party but the same has to be reckoned from the date of occurrence, which in this case would be sometime in 1967.

7. The attempt of the applicant to explain the delay due to his ill health is hardly convincing because he has now chosen to file the application after his retirement for promotion and consequential benefits based only on the judgments in other cases. The inordinate delay and laches of nearly 28 years is not/all satisfactorily explained. If

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he was aggrieved by the inaction of the respondents, he should have also pursued his remedies in the proper forum well in time and not waited for more than a quarter century to wake up to file this application. The MA for condonation of delay is, therefore, rejected.

8. In the result, this application is summarily dismissed as barred by limitation and jurisdiction under section 21 of the Administrative Tribunals Act.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

N. V. Krishnan
(N. V. Krishnan)

Acting Chairmen

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