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Central Administrative Tribunal
Principal Bench

O.A. No. 1601/96

New Delhi, this the 2nd day of August, 1996

Hon'ble Mr. Justice A.P. Ravani, Chairman
Hon'ble Mr. R.K. Ahooja, Member (A)

Shri D.S. Banga,
Senior Airworthiness Officer,
o/o the Director of Airworthiness,
Civil Aviation Department,
Safdarjung Airport,
New Delhi.

...Applicant

(By Advocate: Sh. M.R. Bhardwaj)

-Versus-

1. Union of India,
through Secretary,
Ministry of Civil Aviation & Tourism,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi.

2. Director General of Civil
Aviation, Technical Centre,
Opp. Safdarjung Airport,
New Delhi.

...Respondents.

(By None)

O R D E R (Oral)

By Hon'ble Mr. Justice A.P. Ravani, Chairman-

The applicant who is serving as a Senior Airworthiness ^{officer} claims that in D.P.C. held in April, 1992, his case was wrongly excluded.

The cut off date for considering the eligibility criteria of five years' service as Airworthiness Officer was 1.10.19^{pre}99. On the said cut off date, admittedly the applicant had not completed five years' of service and was falling short of 15 to 16 days of service, ^{of five years} In view of this, ms

ms

Contd....2/-

his name was not included in the DPC which was held in April, 1992. Thus, it is evident that the cause of action, if any, arose in favour of the applicant in April, 1992.

2. Considering ~~from~~ ⁱⁿ the ^{background of facts,} above ^{points,} this O.A. is hopelessly time barred. The applicant has waited for being promoted in the year 1994 and after he has been promoted in the year 1994, he made representation for review of DPC of the year 1992 and claimed that he should be granted promotion with retrospective effect. Such representations were made by him on June 1, 1995 and November 11, 1995. These representations have been rejected by the concerned authorities vide Memorandum dated Nov. 28, 1995. Further representation made by the applicant on Jan. 22, 1996 has also been rejected on April 10, 1996.

3. We have gone through the impugned memorandum rejecting the representations. It is rightly indicated in the decision contained in memorandum that relaxation in eligibility criteria is not a matter of right of any employee. It is for the authorities concerned as to whether circumstances and exigencies of the situation demanded relaxation to be given to candidate concerned. ^{It is} ^{Decd} ~~The contention~~ that the power to grant relaxation or to deny the same should be exercised in just, fair and reasonable manner.

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It is argued by the learned counsel for the applicant that this power has not been exercised in just, fair and reasonable manner. This contention of the applicant's counsel cannot be accepted in view of the reasons stated in the memorandum dated Nov. 28, 1995, which reads as follows:-

"The relaxation of Recruitment Rules regarding qualifying service is obtained from Department of Personnel & Training when eligible officers are not available but in this case for the D.P.C. held in 1991, 5 eligible officers were available."

The aforesaid reasons clearly indicate that the authority concerned has exercised the discretion in just, fair and reasonable manner and no unjustness or arbitrariness can be attributed to the authority. *attached PPS*

4. There is no substance in this O.A., hence, the same is dismissed.

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

PPS
(A.P.Ravani)
Chairman

na.