

(2)

Central Administrative Tribunal
Principal Bench: New Delhi

OA 2426/96

New Delhi this the 30th day of December 1996.

S.C.Bhatnagar
R/o 18 Kunj Vihar Garh Road
Near Nandan Cinema
Meerut.

...Applicant.

(Through Advocate: Shri V.P.S.Tyagi)

Versus

1. Union of India through
Secretary
Ministry of Defence
New Delhi.
2. Controller General of Defence Accounts
West Block V
R.K.Puram
New Delhi.
3. CDA (ORS)
North now CDA (Army)
Meerut.

...Respondents.

ORDER

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

I have heard counsel Shri V.P.S.Tyagi on the question of admission.

2. Applicant ostensibly is aggrieved by the decision of respondent 2 conveyed to the applicant on 18.4.96 rejecting his request for counting of half pay leave and extra ordinary leave on medical certificates towards grant of annual increment and its consequential effect on pay fixation and pensionary benefits. This request arose in relation to period 1.7.60 to 16.8.60 and the relief sought for that the period of absence on extraordinary leave be ordered to be counted towards grant of annual increment. This was rejected vide letter No.AN/IV/6022 dated 27.2.70. Prima
- Lur
✓
- De

(3)

facie, therefore, the OA is barred by limitation and also not maintainable since the basis of grievance had arisen out of an order made prior to 1.1.82, i.e. earlier than 3 years of the constitution of the Tribunal.

2. Shri Tyagi, learned counsel for the applicant urged that since the decision of the respondents was causing a recurring loss to the applicant, on a month to month basis, the OA was maintainable even though the extent of relief, in terms of payment of arrears, can be modulated, in terms of the law of limitation. For this, learned counsel relied on P.L.Shah Vs. UOI 1989 (1) SCC 546. In my view, the ratio of this decision does not apply to the instant case. The pension of the applicant is determined on the basis of the emoluments he drew at the time of his retirement. If his case was barred by limitation while he was still in service, then a fresh lease of life does not occur to his case merely because he has now become a pensioner. On his own showing, the decision regarding treatment of his leave period in relation to his date of increment was taken as far back as 1970. The applicant, on his own showing, had applied to respondent No.3 vide his representation dated 13.7.94 i.e. after a lapse of 24 years. In these circumstances, the OA cannot be maintained under Section 21 (1)(a) read with section 21 (2)(a). The applicant's grievance arose when the order was passed in 1970 which order was not contested for a long period during which the applicant earned further promotions and his pay underwent in consequence refixation by them on account of promotions as well as revision due to revised pay scales by successive pay commissions. It is not open to him to agitate the matter at this stage. Therefore, if limitation is to be overcome mainly because it is claimed that there is an ultimate result in a lower pension or pay, then naturally, in all service matters, including denial of promotions, punishment and

Dr

(4)

pay fixation, there will be no time bar since in all such and like cases, monetary implications arise in some form or other.

3. I accordingly dismiss this application at the admission stage itself under Section 21 of the Administrative Tribunals Act.

R.K. Ahooja 2
[R.K.Ahooja]
Member (A)

aa,