

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1047 of 1997

New Delhi, this 3rd day of July, 2000

Hon'ble Shri V.Rajagopala Reddy, Vice Chairman(J)
Hon'ble Smt. Shanta Shastry, Member(A)

(8)

1. Prabhu Dayal Bhatia
S/o Shri Nathu Ram Bhatia
2. Dev Dutta
S/o Shri Rishal Singh
3. Baldev Raj
S/o Shri Sukh Pal
4. Balwan Singh
S/o Late Shri Rattan Singh
5. S.P. Taneja
S/o Shri K.C. Taneja

All C/o Air Force Central Accounts Office,
Subroto Park, New Delhi-110010. ... Applicants

(By Advocate: Shri P.S. Madhan - not present)

versus

1. Union of India, through
Secretary
Ministry of Defence
New Delhi.
2. Joint Director of Personnel (Civ.)
Air Headquarters, Vayu Bhawan
New Delhi-110011.
3. Air Force Central Accounts Officer
Subroto Park
New Delhi-110010. ... Respondents

((By Advocate: Shri S.M. Arif)

ORDER(Oral)

By Reddy, J.

None appears for the applicants either in person or through counsel. No representation also is made on their behalf. Heard counsel for the respondents.

2. The applicants submit that they were appointed as Equipment Assistants under respondent no.2 on different dates during 1962 and 1963. Their posts were

Copy

redesignated subsequently and on that basis their seniority had been determined. The seniority list had been finalised on 26.6.1968. The provocation for filing the present OA is the order passed by the Tribunal in TA.No.431/91 dated 15.2.1996. In the said order the Tribunal redetermined the seniority of the applicants therein with effect from their initial date of appointment without reference to the date of redesignation of the post. The applicants state that they are also similarly placed as the applicants therein and hence their seniority also be determined with effect from the date of initial appointment and not from the date of redesignation of the posts.

3. The respondents raised two preliminary objections namely, limitation and non-joinder of the necessary parties who are affected by the alteration of the seniority of the applicants. It was stated that the applicants have never made any representation against their seniority which was fixed in 1968. There are 350 similarly placed persons and that if the applicants' case is allowed it would affect the seniors of the applicant. The application, it is urged, has to be dismissed.

4. We have heard the counsel for the respondents as none appears for the applicants. We have gone through the records. We are satisfied that this case has to be rejected on the preliminary ground of limitation. It has to be noticed that the seniority list had been

CCB

finalised in 1968 and in fact the applicants have not stated in the OA as having raised any objection as to their determination of seniority. It is also seen from the order of the Tribunal that the applicants in that case have filed a CWP No.1117/74 in the High Court in 1974 which has subsequently been transferred to the Tribunal in 1991 and disposed of in 1996. It is undoubtedly true that the above order of the Tribunal squarely covers the case of the applicants. The Supreme Court has held in State of Karnataka and Ors Vs S.M.Kotrayya 1996 SCC (L&S) 1488 that what was required to explain under sub-sections (1) and (2) of Section 21 of the Administrative Tribunals Act was as to why the petitioners could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) and (2). That was not the explanation given by the applicants there. The limitation in this case started in 1968 when the seniority list had been finalised and circulated. If the applicants had any grievance against the seniority as fixed in the seniority list, they should have made representation or agitated the case in the Court within the period of limitation. They have done neither. The order of the Tribunal passed in 1996 cannot be a starting point for limitation in the case of the applicants. By 1996 the limitation had already expired. The applicants have not given any explanations for not filing the OA from 1968 to 1996. No MA has been filed by them for condonation of delay.

CM

5. The OA also suffers from laches as the applicants had not taken any steps for redressal of their rights for over 28 years. In K.R. Mudgal & Sons Vs. R.P.Singh & Sons reported in 1986(4) SCC 531, the Supreme Court has also clearly stated that any one who feels aggrieved by the seniority assigned to him should approach the Court as early as possible as otherwise in addition to the creation of sense of insecurity in the minds of the Government servants there would also be administrative complications and difficulties. The fruitless and harmful litigation should be discouraged.

(11)

6. In the circumstances, the OA is dismissed. No costs.

Shanta Shastray
(Smt. Shanta Shastray)
Member(A)

dbc

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman(J)