

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1896/97

New Delhi this the 2nd day of July, 1998.

Hon'ble Sh. T.N. Bhat, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. M.C. Gupta,
S/o Sh. Chandi Prasad,
R/o L-863, Shashtri Nagar,
Meerut(UP). Applicant

(through Sh. D.S. Chaudhary, advocate)

versus

1. Union of India,
through Comptroller & Auditor General
of India, Bahadur Shah Zafar Marg,
New Delhi.
2. Director General of Audit,
Defence Services, L-II Block,
Brassey Avenue,
New Delhi-11. Respondents

(through Sh. M.K. Gupta, advocate)

ORDER

Hon'ble Sh. S.P. Biswas, Member(A)

The applicant, presently a Senior Audit Officer in the Directorate of Audit, Defence Services, Meerut is aggrieved by A-1 order dated 20.1.97 by which his representation dated 4.12.96 for fixation of his pay in the revised pay scale has been turned down.

2. It is the case of the applicant that the Government of India had issued an office memorandum dated 27.5.88 asking for options from its employees by 31.8.88 for exercising option for fixation of pay in favour of the revised scale of pay w.e.f. 1.1.86. Their circular dated 27.5.88, as at page 19 (A-3), refers in this

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connection. The relevant paragraphs, for the purpose of disposal of the O.A., are as under:-

"In exercise of the powers available under Rule 13 of Central Civil Services (Revised Pay) Rules, 1986, the President is pleased to decide that the pay of Government servants drawing their increments annually who opt to switch over to the revised scale of pay from the date of their next increment or subsequent increment falling after 1.1.1986 but not later than 31.12.1987 in respect of the post held by them on 1.1.1986 shall also be fixed in accordance with the provisions of Rule 7 of the Central Civil Services (Revised Pay) Rules, 1986.

The option in the format appended as the Second Section to Central Civil Services (Revised Pay) Rules, 1986 may be exercised by 31.8.1988. The option once exercised shall be final. The option available under these orders can be exercised afresh even by those Government servants who have already exercised option prior to the issue of these orders to switch over to the revised scales. However, the pay of Government servants who still opt to switch over to the revised scales from any date subsequent to 31.12.1987 shall be fixed in those scales under Rule 9 of the Central Civil Services (Revised Pay) Rules, 1986".

3. As per applicant he was posted in the office of Deputy Director Audit, Jammu when the circulation of the aforesaid order was done. He was subsequently transferred on deputation to AIIMS/Delhi from where he came to know about the aforesaid order dated 27.5.88. On coming to know about it, the applicant made representations on 19.12.89, 28.2.90, 12.3.91 and 4.12.96. It is the reply to his last representation that has been impugned vide A-1. The applicant has taken the plea that as per instructions in para-5 of the said order, the contents of the same were to be brought to the notice of all concerned. Since the applicant was posted

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in Jammu, the circulation of the O.M. was never brought to his notice. Otherwise, he would have given his option in time. The applicant has also contended that many of his juniors are now drawing more salary because of he being denied to opt for the Scheme.

4. The respondents have resisted the claim. One of the objections raised by the respondents is that the application is hit by limitation. The applicant's representation dated 13.7.89 was rejected vide orders dated 19.12.89. Similarly, subsequent representation was also rejected by respondents by letter dated 12.3.91. In support of their contention, the respondents have relied upon the decision of the Hon'ble Supreme Court in the case of S.S. Rathore Vs. State of M.P. (AIR 1990 SC 10) wherein it has been held that repeated representations do not extend the period of limitation. The respondents have also contended that it is wrong to say that the circular was not brought to his notice at Jammu. In support of this contention, the respondents have produced Annexure A-6 to show that the O.M. dated 27.5.88 was circulated to all AOs and all sections of the concerned department. The respondents would submit that because the applicant did not come up with specific reasons/circumstances due to which he could not submit his option, his case of belated option was not considered. It has also been submitted that the applicant remained available in Jammu office from 27.6.88 to 31.8.88, he had ample opportunity to come to know about the orders and exercise of his option in time. As

Annex
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the applicant's case had no merit, respondent No.1 did not consider it necessary to refer the case to G.O.I. for relaxation.

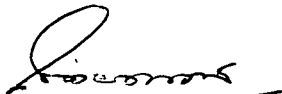
5. During the course of arguments, we wanted to know the law on the basis of which the Tribunal could interfere in such matters. The learned counsel for the applicant would submit that the decision of the Hon'ble Supreme Court in Madras Port Trust's case supports his contention. But the details of that case could not be elaborated by the counsel excepting to say cannot be defeated on the plea of limitation. The facts and circumstances of that case was not made available to us. It is seen that the respondents had fixed up 31.8.88 as the last day for exercising option. Apparently this was done as a part of the administrative policy adopted by the respondents. The applicant is approaching this Tribunal almost after 10 years. We, therefore, find some force in the submission of the respondents that repeated representations do not cover up the problem of limitation. The law has been well settled by the Hon'ble Supreme Court in the case of Karnataka Public Service Commission & Ors. vs. B.M. Vijaya Shankar & Ors. (1992(2) SCC 206). Their Lordships held that domestic/internal regulations are not to be interdicted by a Court or Tribunal. The same view was taken by the Apex Court in a recent case in Gian Prakash Vs. U.O.I. & Ors., (1998(1) SLJ 248). In this case it has been held that Court/Tribunal shall not interfere in the administrative policy of the Government. From the

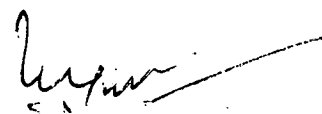
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records available before us, we find that applicant's plea was rejected not only because of limitation but also because of lack of merits.

6. Under these circumstances mentioned above, the O.A. deserves to be dismissed and we do so accordingly. There shall be no order as to costs.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)

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