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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2302/97

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

New Delhi, this the 26 the day of June, 2000

Shri Gopal Krishan Sharma
presently working as JIO-II(G)
Suspect Index Cell
Intelligence Bureau Headquarters
New Delhi. ... Applicant

(By Shri B.S.Gupta, through Shri S.K.Gupta, Advocate)

Vs.

1. Union of India through
Secretary
Ministry of Home Affairs
North Block,
New Delhi.
2. Director
Intelligence Bureau Headquarters
Ministry of Home Affairs
Govt. of India
New Delhi.
3. Assistant Director (G)
Intelligence Bureau Headquarters
Ministry of Home Affairs
Govt. of India,
New Delhi. ... Respondents

(By Shri K.C.D.Gangwani, Advocate)

O R D E R (Oral)

By Reddy. J.

The only point that arises for consideration in this case is as to the date of absorption of the applicant into the Intelligence Bureau (IB).

2. The applicant was appointed in the Central Reserve Police Force (CRPF) as Sepoy in 1972. He was deputed to the IB in 1985 as Security Assistant. As the applicant was promoted as L/Nayak in April, 1988 in his parent department, he was also promoted as JIO-II in the IB w.e.f. 29.8.1988. In 1988 a willingness was called for from the applicant for

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absorption into the IB. On the basis of the willingness given by the applicant, he was absorbed in IB w.e.f. 1.7.1990. The grievance of the applicant is that his juniors in the parent department have been absorbed w.e.f. 1988 hence he ought to have been absorbed from 1988. It is also the case of the applicant that in 1995 he came to know that Shri Y.N.Sharma and Shri Pratap Singh who have been absorbed in 1993, their absorption was preponed w.e.f. 30.10.1992. Hence the applicant made representation that his absorption should have been preponed on the ground that his juniors have been absorbed from 1988 and that there was no reason for absorbing him in 1990.

3. The respondents filed their counter affidavit. It is the case of the respondents that the applicant has been absorbed on the basis of the recommendations made by the controlling officer. There are several parameters to be considered for absorption which include attitude of work, good service record, etc. The controlling officer is alone competent to assess the attitude of an officer and it was his recommendations that should weigh as regards the absorption. It is also stated that once an employee is permanently absorbed from a particular date and his absorption has become final, there is no provision for changing the date of absorption.

4. We have considered carefully the contentions raised by the applicant and the respondents.

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5. It has to be noticed that the applicant has been appointed initially in CRPF and subsequently has been deputed to IB. While working in the IB he was permitted to be absorbed in IB. No provision of law has been shown to us under which he has got a right for absorption in IB. CRPF and IB are two different departments. The applicant could continue and rise in his career only in the Department of CRPF. After the applicant has been deputed to IB, he was permitted to be absorbed in IB as a matter of grace. Considering the willingness given by the applicant in 1988 the applicant has been absorbed in 1990 on the basis of the recommendations made by the concerned Controlling Officer. In fact, it is stated by the learned counsel for the respondents that the absorption of all the similarly placed employees have been made only on the basis of the recommendations of the concerned controlling officer under whom the employees have been working. Merely because the juniors of the applicant in the parent department have been absorbed earlier to the applicant, the applicant cannot have any right for seeking his absorption from the same date. The seniority in the parent department has no relevance for absorption in IB. It is also not open to us to reconsider the question of absorption of the applicant. It was the controlling officer who has to consider the absorption depending upon the nature of duties and functions of the incumbent. Accordingly, the applicant has been absorbed in 1990

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and in fact the applicant was satisfied with such absorption. We do not, therefore, find any merit in the OA.

6. The OA is also barred by limitation. The applicant has been absorbed in 1990. Except stating that the applicant made certain representations against the date of absorption on the ground that his juniors have been absorbed earlier, no representation has been filed ^{in the OA} nor the dates of representations have been given in the OA.

7. The learned counsel for the applicant relies upon the order dated 30.8.1995 where the seniority of Shri Y.N.Sharma and Shri Pratap Singh was refixed consequent upon preponement of the date of absorption of Shri Y.N.Sharma in the IB on the ground that Shri Y.N.Sharma is senior to Shri Pratap Singh. He, therefore, contends that the cause of action arose in 1995 and not in 1990.

8. It is seen from the above proceedings that considering the representations made by Shri Y.N.Sharma who was senior to Shri D.R.Sharma, the date of absorption has been preponed. We are of the view that these proceedings have no relevance for consideration of the date of limitation for filing this OA. The cause of action of the applicant was arisen in 1990. According to him he ought to have been absorbed in 1988 as his juniors Shri Kashmira Singh and Shri Nathani Singh have been absorbed in 1988. Hence the applicant should have made

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representation against his absorption and if his date of absorption has not been corrected within a period of six months from the date of representation, he should have filed the OA within one year therefrom. The OA has been filed in 1997. It is also seen that the applicant has not filed any application for condoning the delay in order to consider whether there is any ground for condoning the delay. The OA is, therefore, hit by Section 21 of the Administrative Tribunals Act, 1985 and is, therefore, liable to be dismissed both on merits and as well as on the ground of limitation. Accordingly, it is dismissed. No costs.

Shanta
(SMT. SHANTA SHASTRY)
MEMBER(A)

V. Rajagopala Reddy
(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/