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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2911/1997

New Delhi, this the 4th day of March, 2003

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri A.P. Nagrath, Member (A)

1. Shri Pradeep Kumar Arora (Draughtsman Gr.II)
Office of Naval/National Hydrographic
Government of India
Dehradun - U.P.248001.
2. Shri Kirti Prasad Thapliyal (Draughtsman Gr.II)
N.H.O.Office,
Dehradun - U.P.248001.
3. Shri Rajesh Kumar Talwar, (Draughtsman Gr.II)
N.H.O.Office,
Government of India
Dehradun - U.P.248001. ...Applicants.

(By Advocate: None)

Versus

1. Director, Naval Hydrographic
Chief of the Naval Staff
Naval Headquarters
Sena Bhawan,
New Delhi-110011.
2. Union of India,
through Chief Hydrographer
Office of Naval/National Hydrographer
Dehradun-U.P.248001.
3. President,
National Hydrographic Office Workers Union
Naval/National Hydrographic Office
Dehradun U.P.-248001.
4. Shri Bhupinder Prasad Bahugana (Draughtsman Gr.II)
Naval/National Hydrographic Office
Dehradun U.P.-248001.
5. Shri Mohan Singh Thapa (Draughtsman Gr.II)
Naval/National Hydrographic Office
Dehradun U.P.-248001. ...Respondents

(By Advocate: Shri A.K.Bhardwaj)

O R D E R (ORAL)

Shri A.P. Nagrath:

Three applicants in this OA are working as Draftsman
Grade-II at National Hydrographic Office Dehradun. They

are aggrieved with the seniority list issued in August 1995 which was followed by another seniority list 29.3.96. By filing this application they seek quashing of the same with further prayer that the seniority list dated 26.10.94 be declared as correct.

2. When the matter was taken up for argument none appeared for the applicants even in the second call. We have proceeded to consider this application under rule 15(1) of the CAT (Procedure) Rules, 1987.

3. Heard the learned counsel for the respondents. The respondents have raised preliminary objection about the maintainability of this application on the grounds of limitation. The learned counsel submitted that it is not open to the applicants to challenge the seniority list which were issued way back in the years 1995 and 1996 as such a belated application attracts the provisions of section 21 of the Administrative Tribunal's Act, 1985 (The Act for short) and is thus not maintainable.

4. On merits, the case of the respondents is that the seniority list of 26.10.1994 was only an aberration. In the seniority lists for the cadre of the applicants and the private respondents issued prior to 1994 and after 1994, the applicants have been shown as junior to the private respondents. The private respondents were senior to the applicants by virtue of their higher merit position in the Recruitment panel. The learned counsel submits that

the seniority list dated 26.10.94 was withdrawn soon afterwards as the same was issued inadvertently. The rectifications was done after giving due notice to the affected persons and after inviting their representations, which were duly considered.

5. We have perused the averments of the applicants in respect of limitation. The applicants' case is that after circulating the seniority list dated 26.10.1994 (which is claimed to be correct seniority list by them) till date no further seniority list has been circulated. It has been stated that impugned seniority list of August 95 was never made public nor any copy supplied to them despite their requests. The plea of the applicants is that the seniority list amended by the respondents in 1995 and 96 were even not acted upon by the respondents till DPC met in December 1997. Thus, the applicants contend that there was no occasion for them to question the seniority list and therefore bar of limitation cannot apply. Having said so, the applicants have also taken a ground that if at all any delay has occurred, it is on the technical ground and the same is liable to be condoned.

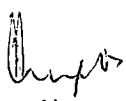
6. We have considered the preliminary objections raised by the respondents as also the stand taken by applicants in their averments in the OA in respect of limitation. There is no dispute that what is under challenge is the seniority list of the years 1995 and 1996. Plea of the applicants is that these seniority lists never

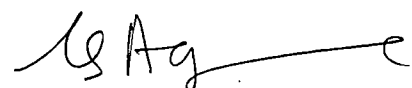
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came to their notice and they were only aware of the seniority list dated 26.10.94 which was only the correct seniority list. Having scanned all the averments of the applicants we find that the plea put forth by the applicants that they were never made aware of the seniority list of August 1995 is belied by what they have stated themselves in para 4.11 of the OA. It has been admitted that the respondents No. 2 drafted another seniority list, allegedly to give the benefit to the persons of their choice, in August 1995 but without any circulation. However the same was displayed on the Notice Board for inviting objections by 10.11.95. The applicants concede that they immediately made representations on 2.11.95 which were delivered to the authorities on 3.11.95, raising their objections against the proposed revision. They have emphasized that despite their representations the seniority list of August 95 was not supplied to them. It is obvious that what the applicants are saying at one place is contrary to what they stated elsewhere. There is no doubt that they had become aware that the amended seniority list had been issued in August 95 by which their seniority position had been changed. They had also represented against that. They cannot be heard to be saying now that they were not made aware of the seniority list of 1995. Even if, on their demand, the seniority list of 1995 which adversely affected them was not supplied to them as they contend, they were required to seek legal remedy within the time prescribed under law. Having slept over the same for so many years, they cannot now take a plea

that because of non supply of the seniority list, the matter remains within the limitation. Thus such a plea is just not tenable. The applicants have not even sought condonation of delay to meet with the provision of Section 21(3) of the Act. There is absolutely no doubt in our minds that this application is barred by time. Since we have reached the conclusion that this OA is hit by the provisions of Section 21 of the Act, we are not inclined to go into the merits of the case. In the case of Ramesh Chand Sharma Vs. Udham Singh Kamal [2000 SCC L&S 53] Hon'ble the Apex Court has observed that in view of section 21 (1) (a) of the CAT Act, the Tribunal cannot admit and dispose of the OA on merits when no application for condonation of delay was filed as required under sub section 3 of Section 21 of CAT Act.

6. We therefore, dismiss the OA being hopelessly barred by time. No costs.


(A.P. Nagrath)
Member (A)


(V S Aggarwal)
Chairman

Patwal/