

7

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...
DA.No.1029 of 1997

New Delhi, this ^{March}~~10~~ day of ~~February~~, 1998.

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

G. S. Randhawa
S/o Sardar Hukam Singh
R/o 83, Sultanpur
Mehrauli
New Delhi.

... Applicant

By Advocate: Shri R. R. Rai

versus

Union of India, through

1. The Secretary,
Ministry of Health and
Family Welfare
Nirman Bhawan
New Delhi-110011.
2. The Director General of
Health Services, D.G.H.S.
Nirman Bhawan
New Delhi-110011.

... Respondents

By Advocate: Shri M. K. Gupta

O R D E R

Hon'ble Mr. K. Muthukumar, M(A)

In this application the grievance of the applicant is that the respondents have denied his request for counting of Army Service from 16.12.49 to 2.6.55 in the civil post of Lower Division Clerk(LDC) under the respondents. The applicant, on being declared surplus to Army Establishment, got his name registered in the employment exchange for a suitable job in civil service and accordingly appointed as LDC

W

under the respondents on 3.6.55 without any break in service. It is stated that he had served the Army till 2.6.55. The applicant after earning promotion as UDC and Assistant, was also confirmed as Assistant on 1.7.83. Thereafter he retired from Army Service on 31.10.88 after attaining the age of superannuation. The applicant relies on a judgment of the Tribunal in P.K. Dutta Choudhary in OA.1346/89 and other OAs decided by a common order dated 18.3.91 wherein the applicants were declared to have been entitled to the reliefs as provided to applicant no.1 Shri R. L. Chhibber in R.L. Chhibber & Ors Vs UOI in OA.1125/86. The effect of the above judgment was that the applicants were allowed counting of their service rendered in the Army Establishment. In view of the reliefs given in similar cases, the applicant claims that the respondents have discriminated against him in denying similar relief to him.

2. In the counter reply, the respondents have strongly raised the preliminary objection that the application is severely barred by limitation. They have stated that the judgment in the aforesaid OAs does not give a cause of action to the applicant. They have also stated that it is a settled law that the past service rendered prior to re-deployment of a surplus employee should not count for seniority and promotion.

3. We have heard the learned counsel for both the parties and also perused the records. We find that

the applicant retired on 31.10.88 after attaining the age of superannuation. There is no averment in the application to the fact that he had raised the issue earlier for counting of past service for the purpose of seniority and promotion in the civil service. It appears from the records that for the first time he had sent a representation on 8.11.96 i.e. almost seven years after his retirement. He had decided to avail of the decisions in the other cases of P.K. Dutta Choudhar and others cited above. We find from the judgment in other cases that the applicants therein had agitated for refixation of seniority in the post of LDC soon after the judgment was rendered in the case of R.L. Chibber and Others (Supra) in May, 1987. P.K. Dutta Choudhary retired on 31.3.1989. However, even before his retirement, he made a representation which was rejected by the respondents on 30.1.1989. Similarly, other applicants Janak Ram in O.A. 1357 of 1989 raised this issue and prayed for relief soon after his permanent absorption as Assistant Administrative Officer on 30.11.1989. In the case of Raja Ram Rao in O.A. 70 of 1989, he had made a representation also before his retirement on 28.2.1989. In the case of Khem Ram in O.A. 1356 of 1989, his representation was dated 26.9.1988 soon after he attained the age of superannuation on 31.7.1988. The other applicant in O.A. 1355 of 1989 D.P. Guru also represented before his retirement on 31.12.1988. Lat Pat Rai Bakshi in OA 1462 of 1989 had also represented on 21.2.1989, i.e., soon after the

h

decision in R.L. Chibber's case. All the above applicants claimed relief on the basis of the relief granted in R.L. Chibber's case and the Tribunal did not accept the plea of limitation in view of ~~the~~ the fact of their timely representation in the said case. It was also held that the cause of action to these applicants should have been said to have arisen only on 28.5.1987.

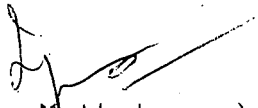
4. In the case of the present applicant, however, it is seen that he had retired as early as on 31.10.1988, i.e., after the decision in R.L. Chibber's case. The Tribunal cannot come to the rescue of the applicant if he has slept over his rights for so many years. Further the delay in some other cases cannot give rise to a cause of action for the applicant. Even so, he has not claimed this relief for so long. There is no indication in the application that he had made any representation either before his retirement or ~~even~~ even after his retirement till November, 1996, i.e., almost 8 years after his retirement. In view of the facts and circumstances of the case, we are of the considered view that this application is barred by limitation. We are guided by the judgment of the Hon'ble Supreme Court in the case of R.C. Samanta and Others Vs. U.O.I. and Others, JT 1993 (3) S.C.418 wherein it is held that a person who has lost his remedy by lapse of time loses his right as well. This application


h

-5- (11)

suffers from severe laches and delays.

5. In the circumstances, we reject this application with no order as to costs.


(K. Muthukumar)
Member (A)


(Dr J. P. Verghese)
Vice Chairman (J)

dbc

90

h