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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1161/94

New Delhi this the 5th day of July, 1994

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

P. P. Dhawan, I.S.S. (Retd.)
S/O Late Shri B. R. Dhawan,
R/O C-486, Yojana Vihar,
Delhi-110092, aged 67 years
Formerly Joint Director,
Department of Statistics,
Ministry of Planning, New Delhi
as a member of the Indian
Statistical Service.

... Applicant

By Advocate Shri P. N. Mehra

Versus

Union of India through
Secretary,
Department of Statistics,
Sardar Patel Bhawan,
New Delhi - 110001.

... Respondent

O R D E R (ORAL)

Shri J. P. Sharma, Member (J) :-

The applicant retired from Indian Statistical Service and is now aged 67 years. He has filed the present application on 30.5.1994. The contention raised in the application is that there was a decision in T.A. No. 45/1985 decided on 27.5.1987 where the seniority was reviewed and promotion of certain members of the Indian Statistical Service was effected retrospectively giving certain monetary benefits on the basis of revision of seniority. It is further contended in the application that one Shri N. K. Bhatnagar also filed an application (O.A. No. 444/89)

before the Tribunal and that application was also disposed of by the Principal Bench by its order dated 18.2.1994 giving him the benefit after his retirement on the basis of the decision in T.A. 45/85 which relates to Writ Petition No. 24/72.

2. The applicant has prayed for grant of the relief that suitable directions should be issued to the respondents that the benefit which has been accorded to Shri N. K. Bhatnagar by the order dated 18.2.1994 in O.A.444/89 be also granted to him. The matter came up before this Bench on 2.6.1994 when the learned counsel prayed for more time to argue on the point of admission.

3. We have heard the learned counsel on admission as also on the point of limitation. The Administrative Tribunals Act, 1985 is self-contained Act which also prescribes the period when a person aggrieved by any grievance/order/non-action/wrong action of the employer can assail the same. However, Section 21 lays down the period and issues an injunction to the Tribunal not to entertain an application not having been filed within the period prescribed, that is, one year or if any representation is made, waiting for the result of the representation for six months, and then file an application under Section 19 of the Act. In all, one and a half year is provided as the period of limitation to be counted when the cause of action has arisen for a grievance. The learned counsel, however, referred to provisions of Section 21 (3) which empowers the Tribunal to condone the delay

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in moving an application under Section 19. Section 21 has been thoroughly discussed in the case of S. S. Rathore vs. State of Madhya Pradesh : AIR 1990 SC 10. A cause of action is never revived either by decision in a similar matter by any court or law, nor can it be revived on account of ignorance of the party about the relevant provisions of law, or rules governing its case. The contention of the learned counsel that the applicant was ignorant of the decision in TA-45/85 or the decision in similar other cases will not revive the cause of action for adjustment of his seniority. Primarily, seniority is a matter which affects the service conditions during the tenure of service of an employee. After his retirement from service on superannuation or otherwise, the seniority loses its significance. The rule of seniority cannot give effective declaration from a prospective date. Of course, certain benefits have been provided and in certain decisions when a seniority is revised years after on a judicial direction issued in a pending matter filed by those who were at the relevant point of time in service and were aggrieved by the seniority list. The applicant all along remained ignorant and not vigilant and also superannuated about nine years ago.

4. If we accept the perception placed by the learned counsel, then the clause of limitation shall stand repelled for all times to come and any person who has retired any time, even a dozen or score of years before, can come any time and place the judgment as an exemplar for giving the benefit, though he was not

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party to that judgment. Such a perception cannot be accepted legally and would also be arbitrary and violative of Articles 14 and 16 of the Constitution as most of such persons would have retired without getting any such benefit of revised seniority.

5. In view of the above facts and circumstances, we find that the present applicant is hopelessly barred not only by limitation but by delay and laches unexplained and not averred in the O.A. The applicant, therefore, fails to make a *prima facie* case for admission. This application is dismissed as not maintainable at the admission stage itself.

Arvind
(S. R. Adige)
Member (A)

J. P. Sharma
(J. P. Sharma)
Member (J)

/as/