

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. 389/94.

(2)

New Delhi, this the 4th day of March, 1994.

SHRI J.P.SHARMA, MEMBER(J).
SHRI B.K.SINGH, MEMBER(A).

Shri Prabhu Dayal Savita,
Drawing Teacher (Retd.),
142/330 A, Rampura,
Delhi-110035.

...Applicant

By advocate : Shri M.P.Raju, proxy counsel
for Ms. Anuradha Kaushik.

Versus

1. Lt. Governor and Administration of Delhi,
National Territory of Delhi.
2. The Director of Education,
Directorate of Education, Old Secretariat,
Delhi. ...Respondents

By advocate : None.

ORDER (ORAL)

SHRI J.P.SHARMA :

The applicant joined as Drawing Teacher on 22-10-1964. He retired from service on 31-7-1993. The applicant has a grievance that he has not been considered for promotion to the post of P.G.T. w.e.f. 3-1-74 in view of the direction issued to a similarly situated person Shri Sharma in the Civil Writ Petition filed in 1972 and thereafter some other persons filed the writ petition before the Delhi High Court in 1985 which stood transferred to Central Administrative Tribunal under Section 29 of the Administrative

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Tribunals Act, 1985 and was disposed of on 23-2-87 directing the Delhi Administration to give the same benefit to those petitioners in the Writ Petition which was given in Shri Sharma's case. Thereafter, a CCP appears to have been filed and the respondents have given the benefit. The applicant was not given the benefit and hence this application has been filed on 31-1-1994. In fact, the challenge in this application is that by order dated 15-11-92 wherein in compliance with the judgment, same benefit has been given, but the applicant has been excluded.

2. The relief claimed by the applicant is that the applicant should be granted the benefit as has been granted to his juniors w.e.f.3-1-74 with all consequential benefits and the order of 13-11-92 be quashed.

3. We heard the learned counsel on 25-2-94 on admission. At that time, the point of limitation was a hurdle for admitting the matter. Today, the proxy counsel Shri M.P. Raju argued on behalf of the applicant highlighting the fact that what he wants is only the benefit of the earlier judgment given to similarly situated teachers employed in the Delhi Administration. He has referred to the extract from

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the 'Sharma's case at page 6 of the O.A. and further at page 9 of the O.A. where it is said that the benefit be given to each category of such teachers.

4. The applicant has since retired in 1993 and he has not agitated his grievance at any time while in service. Even the order of November, 1992 giving benefit to certain other teachers was when he was in service as he superannuated on 31-7-1993.

5. The learned counsel emphatically prays that the applicant has been discriminated and the juniors have been promoted but for every service matter, the limitation is a main factor which has to be considered. A person approaching the Tribunal after twenty years cannot be equated with those who have filed the writ petition in 1972 and 1985 also. The learned counsel, however, has also pointed out that on 16-6-92, the applicant made representation which was rejected in September, 93. We also considered that aspect as the representation has been rejected only on the ground that the applicant has not filed the same within time.

6. In the case of STATE OF PUNJAB v. GURDEV SINGH 1990 SCC VOL.4 P.1, the Hon'ble Supreme Court

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considering the case of Punjab and Haryana High Court has held that even in service matter even though the order may be void, the aggrieved party has to come within limitation. Further, in the case of BHUP SINGH Vs. UNION OF INDIA, ^{1992 A.T.R. 1992 (2)} decided by the Hon'ble Supreme Court reported in A.T.R. 1992 (2) p. 278, the Hon'ble Supreme Court held that a person who is indolent cannot get the benefit even if the earlier ^{judgment} may be in favour of similarly situated person. Even if there was a right available to him, that right is lost by lapse of time as that cannot be enforced. Coming to the Section 21 of the Administrative Tribunals Act, it is a self-contained Act on limitation. We find that under sub-section (3), the Tribunal has no jurisdiction in the matter which is coming for which a cause of action has arisen three years earlier to the enforcement of the Act, i.e., before 1-11-82. However, the applicant should have been given the benefit for that period which should come within limitation, but in the present case, the applicant wants his promotion as P.G.T. from 1974. We cannot unsettle the settled matters after such a long time. We heard the learned counsel for the applicant at considerable length who could not convince us to admit the matter as it is hopelessly barred by

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limitation.

7. The application is, therefore, dismissed. Cost on parties.

(B.K.SINGH)
MEMBER (A)

J.P.SHARMA
(J.P.SHARMA)
MEMBER (J)

'KALRA'