

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A NO. 745/94

Date of decision 31-1-1997

Sh.B.K.Behl ... Petitioner
advocate for the Petitioner
Sh.M.R.Bhardwaj Vs. Respondents
Union of India through
Secy.Deptt.of Statistics advocate for the Respondents
Sh.N.S. Mehta, Ld.Senior.
Counsel

CORAM

Hon'ble Smt.Lakshmi Swaminathan, Member (J)
Hon'ble Shri N.Muthukumar, Member (A)

1. whether reporters of local papers may be allowed to see the judgment? ☒
2. To be referred to the Reporter or not? ☒ yes
3. To be referred to all Benches of the Tribunal? ☒

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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(11)

OA. No.745 of 1994

Dated New Delhi, thi 31st day of January,1997.

HON'BLE MRS LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR K. MUTHUKUMAR, MEMBER (A)

B. K. Behl
S/o Late Shri Walati Ram
Joint Director (Retired)
Indian Statistical Service
R/o G4C DDA Flats, Munirka
NEW DELHI.

... Applicant

By Advocate: Shri M. R. Bhardwaj

versus

Union of India, through
Secretary
Department of Statistics,
Ministry of Planning
Sardar Patel Bhawan
NEW DELHI-110 001.

... Respondent

By Advocate: Shri N. S. Mehta

O R D E R (oral)
Mrs Lakshmi Swaminathan, M(J)

This application has been filed by the applicant seeking the relief, namely, to allow the application with suitable directions to the respondents that the applicant may be accorded the same benefits ordered by the Tribunal in the judgements in S. S. Sachdeva Vs UOI OA.No.1346/88 decided on 8.10.93; S. S. Kapoor & Ors Vs UOI OA.No.115/89 decided on 9.2.94 and N. K. Bhatnagar Vs UOI OA.No.444/89 decided on 16.2.94.

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2. The applicant retired from the Indian Statistical Service (hereinafter referred to as ISS) on 30.4.86. The present application has been filed on 15.3.94. The applicant contends that as per the decisions of the Tribunal in TA.No.45/85 decided on 21.5.87 on which ^{the} appeal preferred by the Union of India was dismissed in March 1988, he should be granted seniority and promotion with retrospective effect.

3. The respondents ^{has} ~~have~~ filed a reply in which he has taken a preliminary objection of limitation.

We have heard both the learned counsel on this ground at length. The learned counsel for the respondents has submitted that apart from the Special Leave Petition referred to above which had been decided in March 1988, another Special Leave Petition filed by D. S. Ramaratnam against the same judgement is still pending in the Hon'ble Supreme Court. He has also submitted that around the same time when this application had been filed, another application had been filed by Shri P. P. Dhawan, ISS who retired on 30.5.94 the number being OA.1161/94 decided on 5.7.94. Paragraph-2 of that judgement shows that Shri Dhawan had also claimed the same reliefs as had been claimed by the applicant in this case, namely, the benefits of the judgement

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and order dated 16.2.94 in OA.No.444/89 (N. K. Bhatnagar Vs UOI). The learned counsel for the applicant submits that in Bhatnagar's case the applicant had also tried to implead himself as an applicant ~~in that application~~^{js.} which was not allowed by the Tribunal. According to him, the MA was not listed. However, it appears, as a matter of fact, that the applicant has failed to pursue his application for impleadment in that case in 1988 or subsequently after the judgement was delivered on 18.2.94. It is clear from these facts that even at that time in 1988 the applicant cannot be held to have been diligent to pursue his remedies which were open to him in accordance with law, but has filed this application in March 1994 claiming seniority, promotion and benefits of service, after his retirement in 1986 at ~~the~~^{a ss} very belated and delayed stage. Having regard to the provisions of Section 21(3) of the Administrative Tribunals Act, 1985, we find no satisfactory explanation for this inordinate laches and delay.

4. The learned counsel for the applicant, however, submit that this case is not barred by limitation having regard to the observations of

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the Tribunal in S.S. Sachdeva's case (supra). However, he has also submitted that the applicant was junior to Shri Sachdeva. His contention is that certain other juniors to the applicant have been granted the benefits by the respondents by order dated 22.7.94 (order placed on record). From this order it is seen that the benefits that were given were to the applicants in OA.1346/88, OA.115/89 and OA.444/89; the applicant having already retired in 1986, the question of seniority loses significance. It is also relevant to mention that another Special Leave Petition is pending against the judgement of the Tribunal in TA.45/85. In the facts of this case, the applicant could have very well pursued his remedies if he so chose to do so, in 1988 when he attempted to implead himself as an applicant in N. K. Bhatnagar's case (supra) and he cannot, therefore, also be held to be ignorant of the earlier cases in time. He has now approached this Tribunal again in 1994 after six years claiming that since certain other juniors to him who had been more vigilant to pursue the remedies in accordance with law had been given benefits, he should also be accorded the same benefits. Such a plea if accepted at this belated stage, would make a nullity of the

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law of limitation as provided in Section 21 of the Administrative Tribunals Act, 1985 and provisions of Articles 14 & 16 of the Constitution as it would mean that such persons can approach the Court or Tribunal at their own sweet-will. This contention of the learned counsel for the applicant is, therefore, without any merit.

[See the observations of the Supreme Court in: (i) S. S. Rathore Vs State of M.P. (AIR 1990 SC 10) (ii) State of Punjab Vs Gurdev Singh (1991) 4 SCC.1 (iii) Ex. Cap. Harish Uppal Vs UOI JT 1994(3) SC.126 and (iv) UOI Vs Ratan Chander Samanta JT 1993 (3) SC.418 wherein it has been held that delay deprives the person of the remedy available in law. A person who has lost his remedy by lapse of time, loses his right as well. We are also in respectful agreement of the judgement of this Tribunal in P. P. Khurana's case (supra).]

5. In the result, we dismiss this application on the ground of delay and laches and as barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. No order as to costs.

(K. Muthukumar)
Member (A)

(Smt. Lakshmi Swaminathan)
Member (J)