

Central Administrative Tribunal
Principal Bench

R.A.No.175/98 in
O.A.No.388/93

Hon'ble Mr. Justice K.M.Agarwal, Chairman
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 24 day of September, 1998

Krishan Dev Dutt
s/o late Shri Ram Chand Dutt
Geological Survey of India
4, Chowranghee Lane
Ratanaker Building, Ist Floor
Calcutta - 16. ... Applicant

Vs.

1. Union of India through
Secretary to Govt. of India
Ministry of Steel & Mines
Deptt. of Mines
Shastri Bhawan
New Delhi - 1.
2. Director General
Geological Survey of India
27 J.L.Nehru Road
Calcutta - 16. ... Respondents

O R D E R (By Circulation)

Hon'ble Shri R.K.Ahooja, Member(A)

The OA in question was filed in the year 1990 before the Calcutta Bench of this Tribunal where it was numbered as OA No.1388/90. Thereafter, when the applicant retired from service, he made an application to have his OA transferred to Delhi and on his request being granted the same was renumbered as OA No.388/93 at the Principal Bench, New Delhi.

2. Briefly the facts leading to the OA are that the applicant had been proceeded against in a disciplinary enquiry in 1978. These proceedings were completed on 4.9.1982 and the final order of the disciplinary authority was passed on 5.4.1984. In the meantime, the applicant had along with others filed a case in Calcutta High Court vice C.O.No.7310W of 1984 claiming that though

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they had been appointed as Drillers they were performing the job of Drilling Engineer (Junior). In this context they impugned the action of the respondent in referring the matter for promotion to the post of Drilling Engineer (Junior) to a DPC on the basis of the circular dated 9.5.1978. The case before the High Court was transferred to the Calcutta Bench of this Tribunal and was numbered as TA No.1808/86 which was dismissed by order dated 22.2.1990. In the course of its order the Tribunal observed that the assessment of the DPC in respect of the present applicant was kept in a sealed cover obviously because of some departmental proceedings pending against him. The applicant thereafter filed an RA against the order of this Tribunal but states that the same was withdrawn because certain technical deficiencies were found in the RA. He thereafter filed an OA No.1388/90 before the Calcutta Bench which as already stated came to be renumbered as OA No.388/93 on its transfer to the Principal Bench. In this OA, the applicant sought relief in main that the disciplinary proceedings against him be declared as void on account of violation of Rule 15 of the CCS (CCA) Rules, and that a direction to the respondents be given to open the sealed cover and thereafter to promote him with all consequential benefits. The said OA was dismissed by the impugned order of this Tribunal dated 23.7.1998. It was concluded in the impugned order as follows:

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"After perusing the record and hearing the applicant in person, we are of the view that this OA has no substance. It has been specifically stated by the respondents in their written statement that pending disciplinary proceedings were not taken into account while taking up the case of the applicant for promotion by the DPC. On assessment of his suitability vis-a-vis others, he was not found suitable for promotion and accordingly his name was not recommended by the DPC. The meeting of the DPC was held in the year 1984 and denial of promotion also appears to be of 1984. The O.A. was

filed in the year 1990 and, therefore, the application also appears to be barred by time. For all these reasons, we find no merits in this O.A.

3. The petitioner submits that there is an error in the impugned order in that the Tribunal lost sight of the facts of the case both in regard to merits as well as the question of limitation. The petitioner has sought to reargue his case regarding his promotion by establishing that the disciplinary enquiry against him was void because the respondents had, contrary to the Rules, taken many years to decide the matter of alleged misconduct in the year 1976. In this context he has reiterated the arguments made by him in the OA. Needless to say that we cannot review the impugned order by going over the same old arguments. The scope of review jurisdiction is limited and since no error of fact or law has been pointed out which is patent on the face of the record, this aspect requires no further consideration.

4. The petitioner has also given the chronology of his litigation beginning with the petition before the Calcutta High Court, filed in 1984 and has sought to show that the Tribunal fell into an error in overlooking the fact that OA No.388/93 was in fact filed in 1990 before the Calcutta Bench and that it was directly related to the decision of the Tribunal of 22.2.1990 in TA No.1808/86. The applicant submits that it is only from the latter order that he had come to know that the decision of the DPC was kept in a sealed cover and therefore there is an error in the impugned order in regard to its findings on the question of limitation. Here also we find no merit in the submission of the petitioner. The petitioner along with his colleagues agitated the matter of promotion right from 1984, firstly

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before the Calcutta High Court and then on transfer of his case before the Calcutta Bench of this Tribunal.

This TA was disposed of on 2.2.1990. It has been noted in the impugned order that on opening of the sealed cover it was found that the applicant had not been recommended for promotion. The Bench had already concluded that there was no irregularity in the conduct of the DPC/Selection Committee, the finding of the DPC could not be questioned. It is in this context that the observation regarding the limitation in the impugned judgment was made even if the difficulty on account of resjudicata was not mentioned.

5. In the light of the above discussion, we find no merit in the RA. Accordingly, the RA is dismissed.

K.M. Agarwal

(K.M. Agarwal)
Chairman

R.K. Ahooja
(R.K. Ahooja)
Member(A)

/rao/