

Tm
67

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. No. 1919/89

New Delhi this the day of 26th April, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member (A).

H.K. Bansal,
S/o Shri Nanhu Ram Bansal,
R/o 21/217 Jagdish Colony
Rohtak

...

Petitioner.

By Advocate Shri G.K. Aggarwal.

Versus.

Union of India
Through the Secretary
Ministry of Communication,
Sanchar Bhawan, 20 Ashoka Road,
New Delhi-110001.

...

Respondent.

By Advocate Shri M.L. Verma.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The petitioner, Shri H.K. Bansal, started his gazetted career as Assistant Executive Engineer (Civil) in P&T Department on 27.9.77. He came to be given adhoc promotion as Executive Engineer on 15.4.82 and reverted on 6.7.1983. He was given retrospective promotion on regular basis by order dated 21.5.1984 w.e.f. 14.2.1983. The petitioner has approached this Tribunal with this application filed on 14.9.1989 in which he has prayed that the date of his adhoc promotion may be ante-dated to 27.9.80 and the date of his regular promotion be ante-dated to 27.3.1981 and for consequential benefits.

2. The case of the petitioner is that he came to know on reading the affidavit filed by the respondents in T-487/86 that some promotions were accorded by reducing the eligibility service of 5 years to $3\frac{1}{2}$ years in exercise of the powers

of relaxation in favour of certain Executive Engineers those sometime in the year 1977. It is his case that/who got promotion on the strength of such relaxation of the service qualification, they are some of his batchmates. He, therefore, complains of discrimination and contends that when relaxation was granted in favour of his batchmates, there is no good reason to pick and choose the petitioner for a different treatment for not granting the same relaxation in his favour for the purpose of promotion.

3. We would like to say at the first instance that we have no jurisdiction to entertain the grievance of the petitioner as the cause of action had accrued three years prior to the establishment of the Tribunal. The cause of action accrued in the year 1977 when relaxation was given in favour of other batchmates of his when such relaxation was not granted in his favour. That having happened in in the year 1977, we have no jurisdiction to entertain the grievance of the petitioner. The petitioner has filed an application for condonation of delay stating that he was not aware of the relaxation made by the respondents in favour of his batchmates and that he came to know about it only after such a stand was taken in the affidavit filed by the respondents in T-487/86. It is not easy to believe the statement of the petitioner. The petitioner, who is a responsible officer, would have certainly known that his batchmates did not have to their credit 5 years eligibility service and that they were promoted only after relaxing the service qualification. Besides, on further scrutiny, we find that Shri H.S. Sharma against whom he complains of discrimination, did not really belong to his batch but belongs to early batch and there is no substance in this submission either.

4. Apart from that as none of the petitioner's juniors have been given the benefit of relaxation, the petitioner cannot make the grievance of discrimination. Persons senior to the petitioner would certainly stand as a separate class. Besides, the question as to whether the relaxation should be accorded or not depends upon the factual situation and the pressing needs of the administration. The respondents have stated that they came to grant relaxation as there was dearth of candidates for according promotion to the Executive Engineers. We see no ground to accept the plea of discrimination. Hence, this petition fails and is dismissed. No costs.

P.T. Thiruvenkadam

(P.T. THIRUVENGADAM)
MEMBER (A)



(V.S. MALIMATH)
CHAIRMAN

1SRD
0260494