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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 184/1989

Date of decision: 20.9.89

Shri R.S. Bhatotiya

....Applicant

Vs.

Union of India & Another

....Respondents

For the Applicant

....Shri Babu Lal,
Counsel

For the Respondents

....Shri K.G. Mittal,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. P.C. JAIN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *VS*

2. To be referred to the Reporters or not? *NO*

(The judgment of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicant, who is working as an Assistant in the Ministry of Defence (Finance Division), New Delhi filed this application under Section 19 of the Administrative Tribunal's Act, 1985 praying for the following reliefs:-

- (i) To quash the Ministry of Defence OM dated 29.7.83 confirming UDCs;
- (ii) to place the applicant at an appropriate place in the select list of UDCs in Defence Cadre along with UDCs of 1980 UDCs Examination by cancelling their OM dated 7.5.1984;
- (iii) to promote the applicant with effect from 31.12.83, the date from which an UDC in Defence Ministry having a lower rank has been promoted as Assistant;
- (iv) to place the applicant in the seniority list of Assistant issued on 14.8.86 by the Ministry of Defence at S.No.72 instead of 107 for his future promotion;

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(v) to refix the pay of the applicant as Assistant on the above basis; and

(vi) to grant to him arrears of pay as Assistant with effect from 31.12.1983.

2. The respondents have filed their counter-affidavit and the applicant his rejoinder. The applicant has also filed MP No.1050/89 for condonation of delay to which the respondents have filed their reply. The case was listed for hearing on the question of admission on 29.8.89 when we went through the records carefully and heard the learned counsel for both parties.

3. The facts of the case in brief are that the applicant entered Government service as LDC in the Ministry of Finance (Defence Division) in 1974. He passed the UDC's Limited Examination in 1980 and was promoted as UDC in 1981.

4. In February 1978, the Government decided to merge the Finance Divisions/Sections with their respective Admn. Ministries/Departments under the Integrated Financial Advisers Scheme and to transfer the personnel working in Finance Divisions/Sections to their respective Administrative Ministries/Departments on a permanent basis. The Integrated Financial Advisers Scheme was introduced in the Ministry of Defence with effect from 1.8.1983 and the staff of the erstwhile Defence Division of the Ministry of Finance has been transferred to the Ministry of Defence. The grievance of the applicant is that the Ministry of Defence, in order to give benefit of seniority/promotion etc. to their own UDCs, issued orders of their confirmation on 29.7.83 as a result of which UDCs in Defence Ministry became en bloc senior to temporary UDCs transferred from the Ministry of Finance (Defence Dvn.). The applicant was on deputation to an ex cadre post of Junior Hindi Translator w.e.f. 2.2.83 to

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30.7.84 in the Ministry of Finance (Department of Revenue) having his lien in UDC's post in the Defence Division of the Ministry of Finance from where he was sent on deputation, and therefore, he was not taken on the strength of the Defence Cadre at the initial stage of merger. He was taken on Defence Cadre only w.e.f. 7.5.84 and was placed junior to all UDCs confirmed by Defence Ministry w.e.f. 29.7.83. was α

5. In 1985, the seniority list of Assistants issued by the Ministry of Defence. The applicant was promoted as Assistant w.e.f. 31.7.86, but he was shown junior to many others.

6. The applicant made several representations successively on 21.5.84, 28.6.84, 27.9.84, 13.3.85, 20.2.86, 26.5.86, 3.6.86 and 20.3.87. He also made an appeal to the Defence Minister on 2.3.88. The application has been filed as the applicant did not get the relief sought in regard to the upgradation of his seniority.

7. In MP 1050/89 filed by the applicant for condoning the delay, he has stated that the cause of action arose when the Ministry of Defence circulated the incomplete seniority list on 7.5.84. Till October/November, 1987, he could not, however, know the exact position regarding his seniority nor did the Defence Ministry clarify it in their replies. He was also anxious to avoid litigation.

8. Admittedly, the applicant has made repeated representations to the Competent Authority from May, 1984 onwards. As early as on 20.7.84, the respondents informed him that his seniority has been correctly fixed in terms of the relevant Regulations (Annexure A-9). This was reiterated by the respondents in their letter dated 31.3.86 in reply to his representation dated 20.2.86 and their letter dated 23.1.87 in reply to his representations dated 26.5.86 and 3.6.86. On 23.4.87, the respondents informed that no new points have been raised in his representation dated 20.3.87.

9. The applicant has preferred an appeal to the Defence Minister on 2.3.88, apparently for bringing the case within the period of limitation. The respondents/in their reply dated 6.4.88 again informed him that no new points have been raised in his appeal.

10. The learned counsel of the applicant relied upon some rulings in support of his contention that the delay, if any, should be condoned in the instant case.* These rulings are not applicable to the facts and circumstances of the present case. The Supreme Court has held in Gian Singh Mann Vs. High Court of Punjab & Haryana, 1980(4) SCC 266 that "successive representations would not justify condonation of delay". On careful consideration, we are of the opinion that this is not a fit case in which the delay is to be condoned. The applicant has filed the present application belatedly and the same is rejected at the admission stage under Section 21 of the Administrative Tribunals Act, 1985. The parties will bear their own costs.

(P.C. JAIN)
MEMBER (A)

Signature
(P.K. KARTHA)
VICE CHAIRMAN (J)