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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 224/89

New Delhi, this day the 25th March 1994

HON'BLE SHRI C.J.ROY, MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM, MEMBER(A)

Shri G.S.Oberoi s/o
Late Shri Sohan Singh Oberoi,
Flat No.382, Asiad Games
Village Complex, New Delhi. ..Applicant
(By Shri J.C.Singhal, Advocate)

Vs.

1. Union of India, through
Secretary,
Ministry of Science & Technology,
Technology Bhawan, New Delhi.
2. Surveyor General of India,
Survey of India, P.Box No.37,
Dehradun (U.P). ..Respondents.
(By Shri PH Ramchandani, Advocate)

ORDER

HON'BLE SHRI C.J.ROY, MEMBER(J).

The applicant is challenging the order dated 23-2-1988 (An-A.1) calling it as review petition *disposed* under rule 29-A read with rule 23(iv) of the C.C.S. (CC&A) Rules, 1965. The applicant is a retired Director of North Western Circle, Survey of India.

He joined the department as a probationary officer *(class II)* ~~and~~ ^{on 1-8-1953} after passing competitive examination held by UPSC. He was confirmed on the post with effect from 1-8-1955. He also appeared during the course of time in 1953 for a competitive examination held by the UPSC for Class I Service (Deputy Superintendent Surveyor) on the Survey of India. He was selected and joined the same on 1-10-1954 alongwith one Shri TK Guruswamy who also got through the said examination and got himself appointed to the Class I post on 1-10-1954. In the order of merit, the applicant is senior to Shri Guruswamy in accordance with the averment made in the O.A. His main claim is that though on 1-10-1954 both of them i.e. the applicant

as well as Shri TK Guruswamy are recruited as class I officer, their scale of pay ^{was not} ~~should be~~ the same. ^{in next promotion} Under the extant order, an officer who has put in a total of 5 years service (whether in class II or class I) became eligible for promotion to the post of Superintending Surveyor. The applicant was accordingly promoted to the post of Superintending Surveyor w.e.f. 1-8-1958 but Shri TK Guruswamy was promoted w.e.f. 2-9-57 since he had joined in class II service on 2-9-52. The applicant has given a chart in support of the facts about how he and Guruswamy are placed and ultimately says that he is drawing pay scale of Rs.600-1150 when they were posted to the post of Superintending Surveyor and TK Guruswamy was drawing the pay scale of Rs.800-1150. Therefore, the applicant claims disparity in the pay scale though he and Guruswamy were appointed as Deputy Supdt. Surveyor (Class I post) on the same day i.e. 1-10-1954.

2. The respondents have filed a counter stating that the application is time barred as the applicant was already informed several times and all his representations were rejected. Besides, they have also explained how the ^{anomaly} ~~anomaly~~ has crept into. The court or Tribunal should not interfere if there is any hardship caused by ^{of} operation of law. The Court can not create law but only interpret. The respondents have also produced the departmental file before us. On perusal, it is seen that the applicant made several representations to the different authorities, e.g. representation dated 26-4-63 to the Secretary, Ministry of Scientific Research & Cultural Affairs and thereafter another representation dated 6-4-71 to the Secretary,

Ministry of Education and Youth Services which was rejected by the Ministry vide its letter dated 30-3-72. He made yet another representation on 24-10-73 which was finally turned down vide Surveyor General's letter dated 22-2-75. Still the applicant made a petition to the President of India on 16-9-80 in which he admitted that he had exhausted all the prescribed normal channels as his appeal dated 24-10-73 was finally turned down. So on and so forth, the applicant has been making representations with a gap of time and the Surveyor General of India vide his letter dated 24-2-88 informed him that his representation dated 24-10-73 has already been rejected. The ld. counsel for the applicant argued that order dated 24-2-88 may be treated as final order and therefore the case is within time. The ld. counsel also elaborately argued under section 21 of the Central Administrative Tribunals Act, 1985. We do not propose to go into the merits of the case and we want to decide the case on the point of limitation. As pointed out earlier, these representations were made some 11-12 years after the representation dated 24-10-73 was finally rejected in 1975. That apart, whenever any representation is turned down the applicant is making further representations after waiting three or four years. Therefore, by any stretch of imagination it cannot be said that every representation was of a different nature and repeated representations made by the applicant do not extend the cause of action as laid down in AIR 1990 SC 10 (SS Rathore Vs. State of M.P.). Looking from another angle also, the disparity in the case between Guruswamy and the applicant has ended in the year 1980. We also note that the disparity in the pay scale between the applicant and Guruswamy

has been washed out by the promotion earned by the applicant in November 1980. Therefore, as argued by the ld. counsel for the applicant, we are not persuaded to accept it as a continuing cause of action at this point of time. Therefore, the applicant cannot claim that the application is filed within time under section 21 of the Central Administrative Tribunal Act, 1985. In the circumstances, we feel that the applicant has not made out a case on the point of limitation. We therefore, feel that it is not necessary to go into the merits of the case. As the application is badly barred by limitation, the same is dismissed. No costs.

P. J. D. R.

(B.T.THIRUVENGADAM)
Member(A)

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just for 25/5/94
(C.J.ROY)
Member(J)