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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

O.A.No.529/89

New Delhi this the 24th Feb 1994.

Shri Justice B.C. Saksena, Vice Chairman(J),
Shri S.R. Adige, Member(A),

Shri Naresh Chander
S/o Shri Dalip Singh,
R/o 1810, Gulabi Bagh,
Delhi-110007.

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Petitioner.

None for the petitioner

Vs.

1. Union of India through its Secretary,
Ministry of Human Resources,
Government of India,
New Delhi.

2. Delhi Administration,
through, Its Chief-Secretary,
Delhi Administration,
Delhi.

3. The Principal,
Government Boys Secondary School,
Bagh Kars Khan,
Delhi-110007.

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Respondents.

By Advocate Shri B.R. Prashar.

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Shri Justice B.C. Saksena.

The case was called out twice. No one has appeared on behalf of the applicant. We have, however, heard

Shri B.R. Prashar, learned counsel for the respondents.

He has taken ~~us~~ ^{us} ~~per~~ through the pleadings on record. In short,

the petitioner claims that he was matric pass and possessed

two years regular diploma from the Institute of Arts

Education, Jamia Millia Islamia, New Delhi. He was appointed

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as Junior Drawing Teacher on 14.10.1959 in the then existing pay scale of Rs.80-220. The applicant has indicated that at the time of his appointment there were four grades. The first grade was Rs.68-170, the second grade Rs.80-220, the 3rd grade was Rs.100-250 and the 4th grade was Rs.120-300. The grade of Rs.80-220 was revised on the recommendations of the second Pay Commission to Rs.130-300. The applicant's pay was revised in the revised pay-scale of Rs.130-300 ^{from} on the date of the initial appointment viz. 14.10.1959. The applicant's pay, it appears, was fixed in the pay scale of Rs.160-300 but by an order dated 16.2.1963, Annexure 'B' passed by the Assistant Director of Education, Delhi, the then Principal of the erstwhile Gandhi Nagar School was directed to recover the money from the applicant due to wrong fixation of his pay in the scale of Rs.160-300 and the applicant was fixed in the scale of Rs.130-300. The applicant claims parity with one Shri Keshav Ram on the basis of the judgement rendered by the Delhi High Court in his case, viz., Latest Patent Appeal No.190/72 Sh. Keshav Ram Vs. Delhi Administration and Ors. The said judgement shows that the appellant Keshav Ram was initially appointed in the grade of Rs.68-170. Though rule nisi was issued, on behalf of the respondents, no counter affidavit was filed and thus, the Delhi High Court found that no good reasons had been ~~communicated~~ ^{indicated} by the respondents therein as to why the appellant was denied fixation in the pay scale of Rs.80-220 from the date of

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initial appointment. The Bench accordingly held that the applicant was entitled to and be granted the grade of Rs.80-220 w.e.f. the original date of his appointment viz., 28.10.1953. He was also held to be entitled to Rs.160-300 by way of revision of the pay scales, as mentioned in the communication dated November 25, 1960. From the facts, noted hereinabove, it would be apparent that there was no parity to the claim which was found to be given to the appellant Keshav Ram. Keshav Ram, according to the said judgement, was only directed to be given the grade of Rs.80-220 and the revised scale of Rs.160-300. The applicant before us had already been appointed in the grade of Rs.80-220 and on revision of the pay scale his pay was fixed in the scale of Rs.160-300. Thus, the claim for parity and applicability of the judgement rendered in favour of Shri Keshav Ram does not come in the facts of the present case. However, we find that the applicant has prayed that the respondents be directed to give the benefit of pay scale of Rs.160-300 as per the recommendations of the second Pay Commission, as noted hereinabove. The pay of the applicant was fixed in that scale but he was denied the said scale by an order passed on 16.2.1963. The applicant has sought quashing of the said order. The petition was filed on 7.3.1989. There is no averment in the D.A. that against the order dated 16.2.1963 the applicant preferred any representation. The

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representation which he had filed is dated 26.6.1986, that is to say, almost 23 years after the impugned order was passed. Such a claim would not be maintainable and would be barred by limitation since the cause of action has been shown to have accrued to the applicant more than three years before the Constitution of this Tribunal. As noted hereinabove, there were four grades. The applicant was appointed in the second grade. He claims appointment in the 4th grade of Rs.160-300. All we know is that the applicant may not have been selected for appointment against the 4th grade. If he was selected and appointed in the grade Rs.220 on 14.10.1959 and the order for recovery because of wrong fixation of pay in the scale of Rs.160-300 was passed on 16.2.1963, we are not inclined to grant any relief to the applicant. The O.A. is clearly barred by limitation and raises a very stale claim. The applicant had not made any representation. The representation made by him after a lapse of 23 years of passing of the order to make recovery from him would not, in our opinion, stop the limitation to run. In view of the above, the O.A. is dismissed. There would be no order as to costs.

Adige
(S.R. ADIGE)
MEMBER (A)

Bochakne
(B.C. SAKSENA)
VICE-CHAIRMAN (J)

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