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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 819/89. DATE OF DECISION: 21-1-1992.

Shri Ghanshyam Dass Applicant.

V/s.

Union of India & Others Respondents.

CORAM: Hon'ble Shri P.C. Jain, Member (A).
 Hon'ble Shri Maharaj Din, Member (J).

Shri D.S. Rajput, counsel for the applicant.
Mrs. Raj Kumari Chopra, counsel for the respondents.

P.C. JAIN, MEMBER (A): JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, a Carpenter HS II in the office of Transportation Section No.7 BRD Air Force, New Delhi, is aggrieved in the matter of his seniority vis-a-vis respondents Nos. 5 and 6. He has prayed that his seniority be restored to position No.1 and above the respondents Nos. 5 and 6, that the seniority of respondents Nos.5 and 6 be fixed from 14.10.1974, and that he be granted consequential relief from the date of promotion of his junior and he be promoted.

2. The respondents have contested the application by filing a return, to which the applicant has filed a rejoinder. We have perused the material on record and also heard the learned counsel for the parties.

3. It is common ground between the parties that when an industrial employee, a category to which both the applicant and respondents Nos.5 and 6 belong, is transferred from one unit to another on his own request on compassionate grounds, he counts his seniority in the transferred unit from the date he joins in that Unit. The applicant came on transfer to that Unit admittedly on his own request on compassionate grounds on 13.12.1971. Respondents Nos.5 and 6 were posted to that Unit in 1974. If such an employee is transferred from one

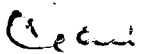
(12)

Unit to another in public interest, then he counts his previous service also even on transfer to a new Unit. The bone of contention is that according to the respondents, respondents Nos.5 and 6 were transferred to the Unit in public interest. This is borne out by the relevant transfer order dated 14.9.1974 (Annexure A-2). The applicant, however, contends that they were also transferred at their request and on compassionate grounds. Even if it were so as a matter of fact, the fact remains that the competent authority passed the transfer order in public interest as is clearly stated in the relevant transfer order. Accordingly, respondents Nos.5 and 6 have been assigned seniority in the new Unit after counting their previous service. The applicant did not challenge this at the appropriate time. For the first time, he seems to have raised the issue in his representation dated 16.9.85 (Annexure A-7) when his juniors were said to have been promoted to the Selection Grade in the carpenter category. His representation was replied to on 24.9.85, in which he was informed that the Selection Grade was given to the correct persons who were senior to him and that the seniority roster was approved by SPSO Maintenance Command. Thus, even if it is presumed that the applicant had no knowledge of respondents Nos.5 and 6 having been posted to his Unit in public interest and thereby allowing them seniority over him, the cause of action accrued to him when a reply to his representation was sent to him by letter dated 24.9.85. He filed this O.A. on 17.4.89, i.e., much after the limitation period of one year prescribed under Section 21 of the Administrative Tribunals Act had expired. There is neither any petition for condonation of delay, nor any explanation is available in the averments of the applicant in this regard. Learned counsel for the applicant urged at the bar that the cause of action to the applicant accrued in February, 1989 when reply to his representations dated 16.1.89 and 1.2.89 was given to him (Annexure A-1). This contention is without any force inasmuch as, as already

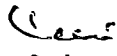
stated above, his first representation was replied to in September, 1985. It is well settled that repeated representations do not have the effect of extending the limitation (Gian Singh Mann Vs. High Court of Punjab and Haryana and Another - 1980(4) SCC 266; S.S. Rathore Vs. State of Madhya Pradesh - AIR 1990 SC 10). In fact, the impugned order dated 15.2.89 itself makes it clear that the point of seniority had already been clarified earlier and that the case being more than 14 years old now is treated as closed. It further states that the screening committee of the III level JCM council had also treated this point as closed. He was once again informed by the impugned order that no useful purpose would be served by submitting applications repeatedly.

4. In view of the above discussion, we hold that the application is hopelessly barred by limitation. In matters of seniority, laches which seek to disrupt vested rights regarding seniority, rank and promotion are not to be ignored (R. S. Makshi & Others Vs. I.M. Menon & Others - 1982 (2) SCR 69). In a recent judgment by a Constitution Bench of the Supreme Court, it was held that it is not in the interest of service to unsettle a settled position (THE DIRECT RECRUIT CLASS II ENGINEERING OFFICERS' ASSOCIATION AND OTHERS Vs. STATE OF MAHARASHTRA AND OTHERS - Judgments Today 1990 (2) S.C. 264). Accordingly, the O.A. is dismissed as barred by limitation, with no order as to costs.


(MAHARAJ DIN)
Member (J)


(P.C. JAIN)
Member (A)

Provisioned by the undersigned in the
open court.


27/1/1992