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CENTRAL ADMISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 843/1989. DATE OF DECISION: 4.10.1991.

Shri B.S. Beniwal Applicant.

v/s.

Union of India & Others Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J).
Hon'ble Mr. P.C. Jain, Member (A).

Shri S.C. Gupta, Senior Counsel with Shri R.K. Gupta, counsel
for the Applicant.

Shri M.L. Verma, Counsel for the Respondents.

G. SREEDHARAN NAIR, V.C. : JUDGEMENT

The applicant was an Assistant Conservator of Forests under the Government of Arunachal Pradesh. He was selected for the post by the order dated 28.2.1972 and after training was appointed on 3.3.1974. By the order dated 28.12.1977, he was posted as officiating Divisional Forest Officer without any extra remuneration. It is alleged that he continuously discharged the duties of Divisional Forest Officer against senior scale cadre post, which was in the pay scale of Rs.1100-1600 till he was promoted to the Indian Forest Service (for short, IFS) by the order dated 20.7.1983. According to the applicant, the actual salary for the post was paid to him only for a period of three months with effect from 19.10.1982 to 18.1.1983. It is stated that on 9.5.1984, a representation was submitted by him to the third respondent claiming pay and allowances in the post of Divisional Forest Officer. He has prayed for directing the respondents to make payment of the pay and allowances in the pay scale of Rs.1100-1600 with effect from 5.1.1978 to 19.7.1983 excluding the period of three months with effect from 19.10.1982 to 18.1.1983.

2. Another grievance of the applicant is that his promotion to the IFS was delayed by three years. According

to him, it was due on 3.3.1980 when he completed eight years of service. It is prayed that a direction be issued to the respondents to give appointment to the applicant in the IFS with effect from 3.3.1980.

3. The third relief claimed by the applicant relates to the assigning of his year of allotment in the IFS. By the order dated 16.3.1984, the second respondent assigned 1979 year of allotment to the applicant. It is alleged that being aggrieved by the said order, the applicant made a representation on 4.5.1984 to the first respondent, claiming 1974 year of allotment. It is admitted that the representation was rejected by the letter dated 14.11.1984. The applicant alleges that he made a subsequent representation on 8.1.1985 for review, followed by a further representation on 3.7.1985, but it was rejected in February, 1987. The applicant prays for issue of a direction to the respondents to assign 1974 year of allotment. It is urged that the benefit of continuous officiation in a cadre post has to be reckoned for the purpose of counting seniority.

4. In the reply filed by the first respondent, a preliminary objection is raised that the application is not maintainable on account of unexplained delay and lack of jurisdiction on the part of the Tribunal. There is also the plea that the application is bad for nonjoinder of necessary parties since a large number of officers borne on the Union Territories cadre, who have not been impleaded, will be affected by the redetermination of seniority claimed by the applicant.

5. On the merits, it is contended that as eligibility for consideration for promotion to the IFS is determined with reference to 1st January of the year in which the meeting of the Selection Committee takes place, the applicant would have been eligible for the first time only in the year 1981. It is stated that actually the meeting of the Committee was held in the next year and, as such, there is no infraction of the

rules and regulations. It is pointed out that there is no statutory rule requiring the meeting of the Selection Committee every year compulsorily. As regards the officiation of the applicant in senior posts, it is contended that it did not have the approval of the Central Government or the UPSC, as required under the rules and hence the applicant cannot claim the benefit of the same.

6. At the time of hearing, counsel of the first respondent strenuously pressed the preliminary objection with respect to laches and delay and the bar of limitation. Though an attempt was made by the counsel of applicant to counter the same, we are of the view that the objection of the first respondent is to be accepted.

7. The first relief relates to the pay and allowances of the post of Divisional Forest Officer during the period from 5.1.1978 to 19.7.1983 excluding the period of three months with effect from 19.10.1982 to 18.1.1983. It is admitted in the application that on 9.5.1984, he made a representation to the third respondent claiming the same. Evidently, it was not allowed. The present application has been filed only on 12.4.1989. There is no explanation for the delay. The cause of action actually arose from the date on which the applicant assumed charge of the post. At any rate when the representation that was filed on 9.5.1984 did not meet with success, if the applicant was aggrieved, he should have sought redress within a reasonable time thereafter.

8. The second relief relates to the claim for appointment to the IFS with effect from 3.3.1980. Even as per the averment in the application, the applicant cannot claim to be considered for promotion to the IFS with effect from 3.3.1980, since he did not complete the permitted qualifying service of eight years on 1.1.1980. That apart, it is on record that the applicant was considered by the Committee that met in the year 1982 and his case was recommended, based on which he has been promoted. Admittedly, the Committee

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did not meet in the year 1981. It was by the order dated 20.7.1983 that the applicant was promoted to the IFS. Pursuant to the order, the applicant had accepted the appointment. If the applicant had any grievance that his promotion and the consequent appointment to the IFS should have been made with effect from an earlier date, he should have moved then and there. It appears that on 16.3.1984, a representation was made by the applicant, which was not successful. Here again, there is an unexplained delay and laches on the part of the applicant so as to disentitle him to claim the relief.

9. The last relief relates to the assignment of the year of allotment. From the averment in the application, it is clear that it was by the order dated 16.3.1984 that the applicant was assigned 1979 year of allotment (vide paragraph 4(X)). It is admitted therein that on 4.5.1984, the applicant made a representation to the first respondent contending that the year of allotment given to him is not proper and claiming 1974 year of allotment, which was rejected after consideration, by the order dated 14.11.84. The applicant relies on the subsequent representations dated 8.1.85 and 3.7.85. As they are not statutory representations, they cannot be of avail for extending the period of limitation or challenging the orders assigning the year of allotment and rejecting the representation against the same. Besides, the subsequent representations were also rejected in February, 1987. Thus, the said relief is also hopelessly barred by limitation and hit by laches. It is also significant to point out that without specifically praying for cancellation of the order assigning the year of allotment or for quashing the orders by which the representations of the applicant were rejected, the applicant has merely prayed for issue of the direction to the respondents to confer to the applicant 1974 year of allotment.

Ex-facie, the prayer cannot be sustained.

10. We hold that the application is not maintainable.
It is accordingly dismissed.

C. C. Jain
(P.C. JAIN)
Member(A)

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(G. SREEDHARAN NAIR)
Vice Chairman (J)

4.10.1991.