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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.1313/88

New Delhi this the 30th day of November, 1993.

Shri Justice V.S. Malimath, Chairman.

Shri S.R. Adige, Member (A).

Shri M.M. Lal
S/o Late Shri Radhey Lal,
R/o E/12, Altinho,
Panjim,
Goa.

... Petitioner.

By Advocate Shri Gopal Singh.

Vs.

1. The Union of India,
through the Secretary,
Department of Personnel,
Public Grievances and Pensions,
North Block, Central Secretariat,
New Delhi-110 001.

2. The Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi-110001.

3. Chairman
Union Public Service Commission,
Dholpur House,
New Delhi.

4. The State of Arunachal Pradesh
through its Chief Secretary,
Itanagar-791111. ... Respondents.

By Advocate Shri N.S. Mehta, Sr. Standing Counsel.

ORDER

By Shri Justice V.S. Malimath.

1. The grievance of the petitioner Shri M.M. Lal, in this case is principally in regard to the allocation of the appropriate year in the I.A.S. He has actually been given seniority in the year 1979 whereas he claims that he should have been included in the select list of 1972 and given appropriate seniority. Though differently worded, this is the sum and substance of the reliefs which he claims.

2. The petitioner has challenged several orders passed between the years 1963 and 1978. At the outset we must say that the Tribunal has no jurisdiction to entertain any grievance in respect of which the cause of action had accrued three years prior to 1.11.1985. Hence, none of the impugned orders can be challenged before the Tribunal in these proceedings.

3. As regards the claim of the petitioner for inclusion of his name in the select list of 1972, it is clear from the proceedings that the case of the petitioner was considered by the Selection Committee in the year 1971 and he was superseded and Shri J.M. Syiem and Shri T.R. Das who were his juniors were selected. The right of the petitioner is only for consideration. The process of induction is by selection. The Selection Committee had duly applied its mind and considered the case of the petitioner. The petitioner was not included in the Select List for he did not have sufficient merit as compared to Shri J.M. Syiem and Shri T.R. Das. Apart from the long delay and lack of jurisdiction of the Tribunal, on merits also we do not find any justifiable reasons to grant relief to the petitioner. The petitioner has only right for consideration of his case and his case was accordingly considered. There is no violation of Articles 14 and 16 of the Constitution nor can his non-selection for any good reasons be treated as arbitrary or capricious. The next selection took place in the year 1973 when the petitioner was found to possess sufficient merit for inclusion in the Select List. Since there were no vacancies at that time, he could not get the benefit of that selection. In the year 1978, the petitioner was duly considered and he was accorded

seniority in the year 1979. At all times, the petitioner's case was properly and satisfactorily considered and he cannot make any legitimate grievance in that behalf.

4. The counsel for the petitioner, however, submitted that the Supreme Court has given liberty to the petitioner to agitate his grievance before the appropriate forum. The observations of the Supreme Court were made in the order dated 9.12.1983. Having regard to our findings on merit, it is obvious that the petitioner cannot get any benefit. It is necessary to point out that the petitioner has claimed seniority over Shri Syiem and Shri Dass. They not having been impleaded as party, he cannot claim any relief regarding his seniority. Learned counsel for the petitioner submitted that the petitioner having since retired from service, the question of affecting the rights of Shri Syiem and Shri Dass does not arise as the petitioner would only be entitled, if he succeeds, to monetary benefits and not displacement of anyone of them. It is obvious that the number of vacancies in the IAS cadre in any particular year are limited. If the petitioner is granted relief, one person has to yield place. This means that the right which had accrued in favour of other persons would be affected by our decision in directing/seniority being accorded to the petitioner. Hence, we are inclined to take the view that they are necessary parties and failure to implead them is fatal in this case.

5. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

Arif Ali
(S.R. ADIGE)
MEMBER(A)

Malimath
(V.S. MALIMATH)
CHAIRMAN