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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

O.A. No. 1348/1988.

DATE OF DECISION: February 6, 1990.

Amar Jit Singh and Others	....	Applicants.
Shri S.K. Bisaria	....	Advocate for the Applicants.
		V/s.
Lt. Governor, Delhi and Ors.	....	Respondents.
Shri J.S. Bali	....	Advocate for the Respondents.No.1 & 2.
Shri R.L. Tandon	....	Advocate for the Resp.
<u>CCRAM:</u> Hon'ble Mr. P.C. Jain, Member (A).		3,4,10,11,12,14, 21,25,26,27 & 29.
Hon'ble Mr. J.P. Sharma, Member (J).		

(Judgement of the Bench delivered
by Hon'ble Mr. P.C. Jain, Member)

JUDGEMENT

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants, who have challenged the seniority list issued by respondent No.2 on 9.2.77, which was held valid by this Tribunal in T.A. 727/85 and T.A. 773/85, have prayed that the applicants may be declared as entitled to get their seniority with effect from 1.1.1963 over the respondents No.3 to 38 in the cadre of Craft Instructors.

2. Briefly stated, the facts are that the applicants were selected on 14.12.62 for appointment as Craft Instructor. After medical examination, they were sent for seven months' training with effect from 1.1.63 and they were paid stipend @ Rs.75/- per month during the training period. After completion of training, they were appointed as Craft Instructor in the grade of Rs.180-280 with effect from 1.8.63, while those appointed during the period the applicants were on training, have been allowed seniority with effect from the date of their appointment. The applicants' case is that the period of training is to be treated as a period spent on duty in

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accordance with the provisions of F.R. 9(6) and that they were actually appointed as Craft Instructor on 1.1.63 when they were deputed for training.

3. The official respondents have refuted the contentions of the applicants in regard to their claim for seniority with effect from 1.1.63 and have also pleaded that the application is barred by limitation. Eleven of the 38 private respondents in the Original Application, have also opposed this application on the plea of limitation as well as on merits. Eleven persons were allowed to be impleaded as respondents through Order dated 10.5.89 in M.P. 746/1989.

4. We have perused the material on record and have also heard Shri S.K. Bisaria, learned counsel for the applicants, Shri J.S. Bali, learned counsel for respondents No.1 and 2 and Shri R.L. Tandon, learned counsel for respondents No.3, 4, 10, 11, 12, 14, 21, 25, 26, 27, and 29. No other respondents were represented.

5. Recruitment Rules for the post of Craft Instructor (Sr.) and (Jr.) in the Directorate of Employment & Training were notified on 14.1.1960, wherein the posts of Craft Instructor (Sr.) and Craft Instructor (Jr.) were shown as separate posts. Vide amendment notification dated 30.1.1976, the posts of Senior and Junior Craft Instructors were amalgamated into one and a revised seniority list was issued vide letter dated 9.2.77. The applicants have not shown to us that they made any representation against the tentative seniority list circulated before the final seniority list was issued on 9.2.77. They have also not shown to us that they had made any representation before 8.4.88. The private respondents, in their reply, have stated that seniority list for the posts of Craft Instructor (Jr.) had been issued even earlier than 1977 and one such

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list issued on 7.9.71 was made available to us. The relief prayed for relates to the period 1.1.63 to 31.7.63. The impugned seniority list was issued on 9.2.77. The application is, therefore, hopelessly time-barred, and as the cause of action in this case accrued during the period prior to three years preceding the date on which the Central Administrative Tribunal came into existence, the Tribunal has no jurisdiction to adjudicate in this matter as per Section 21(2) of the Administrative Tribunals Act, 1985. On behalf of the applicants, the following points were pressed with a view to showing that the application/^{was}not time-barred: -

- (i) The impugned seniority list was under challenge through various writ petitions filed in the Delhi High Court, which were ultimately decided by the Tribunal on 31.5.88, on transfer under Section 29 of the Administrative Tribunals Act and, therefore, the limitation would start ~~commencing~~^{from} from that date.
- (ii) Representations made in 1988 were returned with the remarks that as the seniority list was sub-judice, no action could be taken on those representations. Representations made after the decision of the Tribunal on 31.5.88 were also not disposed of on the plea that the applicants had approached the Tribunal before they could be considered and decided.
- (iii) In an identical case of a Craft Instructor in Punjab, Additional District Judge, Roper, in Civil Appeal No.222 of 79 dated 6.12.80 - Rattan Chand Abrol Versus the Punjab State, allowed the seniority to the applicant from the date on which he had joined the training. The second appeal (No.1236 of 81) and S.L.P. (Civil No.9524 of 81) filed by the State of

Punjab in the High Court and the Supreme Court respectively were dismissed. This amounts to declaration of law on the subject and the benefit of the judgement should be made available to the applicants irrespective of limitation.

6. The answering respondents have vehemently contested all the above contentions. It was argued that the case of Punjab cited above, is not applicable as the facts in that case were significantly different, and that the second appeal filed in the High Court and the SLP filed in the Supreme Court were rejected without giving any reasons and the order of the Addl. District Judge cannot be deemed to have laid down a law on the subject. It was further urged that no representations before 1988 were shown to have been made and the application was time-barred in view of the Supreme Court's judgement in the case of Trilok Chand Moti Chand Vs. H.B. Munshi & Others (1969(2) SCR 824) and in the case of Shri S.S. Rathore Vs. State of Madhya Pradesh (ATR 1989 (2) 335). A number of judgements of the Tribunal were also cited by Shri R.L. Tandon, learned counsel for the private respondents to the effect that the Tribunal had no jurisdiction in matters where the cause of action had arisen before 1.11.82.

7. It may also be mentioned here that applicant No.2 in his representation dated 8.4.88 (Annexure A-5 to the application) has himself stated that he had not represented earlier as he was not well conversant with administrative rules. Further, in his representation dated 16.5.88, he has stated that return of his representation on the plea that the seniority list was sub-judice was not relevant because the case pending in the court related to fixation of combined seniority for settling the case of entitlement to Selection Grade.

These two things show that no representation had been made before April, 1988 and the averment in para 7 of the application ^{that} representation had also been made on 1.9.83 is not substantiated. It further shows that the writ petitions filed in the Delhi High Court, which were ultimately disposed of by a judgement of the Tribunal on 31.5.88, was not at all relevant to the applicants' case and this did not prevent the applicants from taking the matter to an appropriate court within the prescribed limitation.

8. The case of Shri Rattan Chand Abrol (supra) pleaded by the applicants is not applicable to the facts of this case. A copy of the judgement of the Additional District Judge, dated 6.12.80 shows that the plaintiff in that case had joined the Public Relations Department, Punjab in March, 1959 and he was selected as Craft Instructor in 1962. His seniority earlier fixed in 1966 had been modified in 1977. This modification was challenged. The judgement also shows that there were certain instructions of the Government of Punjab which were found to make the plaintiff entitled for continuous seniority. The facts in the case before us are totally different. The discussion in the judgement on the relevant rule on the interpretation of the term "Duty" cannot prima-facie be accepted in this case, firstly because it has not been shown that the relevant rule in that case is exactly identical or similar to F.R. 9(6) which is relevant in this case, and secondly because the decision of the Addl. District Judge cannot be said to have laid down a law on the interpretation of F.R. 9(6).

9. In view of the above discussion, we are of the view that the application is hopelessly time-barred. The applicants have not been able to show any valid

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ground on the basis of which we could consider condoning the delay. Moreover, in this case, we are not competent to condone the delay because the cause of action accrued in this case much earlier than the period of three years prior to the coming into existence of the Central Administrative Tribunal. The application is accordingly dismissed. The parties will, however, bear their own costs.

J. P. Sharma
(J.P. SHARMA)
Member(J)

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

6.2.1990.