

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

* * *

Date of Decision: 3/7/92

OA 1705/88

V.K. BHASIN

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

For the applicant

... Shri R.P. Oberoi,
counsel.

For the respondents

... Mrs. Raj Kumar Chopra,
counsel.

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH...VICE CHAIRMAN.
THE HON'BLE MR. I.P. GUPTA, MEMBER (A).

1. Whether reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(DELIVERED BY HON'BLE SHRI I.P. GUPTA, MEMBER (A).)

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985. The applicant was appointed to Indian Ordnance Factory, Central Civil Services (Grade 'A') under the department of Defence Production and Supplies, Ministry of Defence w.e.f. 1.12.72. He was placed on probation for a period of 3 years which he completed satisfactorily and was also confirmed.

2. The next higher promotion post in the above service ^{viz} Central Civil Services (Grade 'A') is Senior Time Scale. Under the Recruitment Rules qualifying period in the feeder post for promotion was 4 years. Applicant became eligible for promotion to the post of Deputy Manager (Senior Time Scale) in December, 1976. In the list announced by the respondents for promotion to the post of Deputy Manager in March, 1977 the applicant's name did not figure. The applicant submitted representations against the supersession. The first representation made was dated 27.4.77. Another representation was dated 24.10.77. Vide letter dated 19.1.78 the applicant was informed that the post of Deputy Manager was selection appointment and promotion to that grade was made as per recommendation of the relevant Departmental Promotion Committee. Further representations were made by the applicant on 10.9.84, 18.4.86 and 18.5.87. On 22.9.87 he was informed that his seniority had been correctly determined. The applicant submitted a memorial to the President of India on 14.1.88.

3. The applicant has claimed for the relief that recommendation of the Departmental Promotion Committee which was made in Jan/Feb., 1977 for the preparation of a panel for promotion to the post of Deputy Manager be set aside and the applicant be promoted to the grade from the date from which his juniors were promoted and the consequential benefits should also flow to him.

4. The contentions of the learned counsel for the applicant are that the applicant successfully completed his probation period and having been confirmed, he could not have been so lacking in performance as to warrant his

supersession by a large number of officers. No adverse remarks were conveyed to him.

5. The learned counsel for the respondents raised the preliminary objection of limitation. They argued that the grievance related to the period 1977 and the application was filed in September, 1988. As such the application was not tenable under law. It was also said that the promotion of the Deputy Manager is a selection post and he was duly considered for promotion.

6. However, on the question of limitation the learned counsel for the applicant cited several cases to justify that the expression 'sufficient cause' under Section 21 of the Administrative Tribunals Act should receive a liberal construction so as to advance substantial justice. He said that when substantial justice was pitted against technicalities, substantial justice should prevail. He also quoted the case of A. Sagayananthan & others Vs. Divisional Personnel Officer, SBC Division, Southern Rly. (AIR 1991 SC 424) wherein it was held that as the promotion to the higher post was governed by seniority and the appellants were not considered, the matter required re-consideration despite the delay in filing application. However it has to be seen whether in the particular facts and circumstances of this case, there is sufficient cause to condone the delay. No application for condonation of delay has been filed. This is not a case where applicant was not considered for promotion despite his seniority. This is also not a case where the delay is marginal. Repeated unsuccessful representations not provided by law do not come to the rescue of the applicant from the bar of limitation.

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7. The learned counsel for the applicant argued that the Rule provided for successive representations to higher and higher authorities. But in this case we find that a representation was made on 24.10.77 to the Secretary, Department of Defence Production regarding non-figuring of the name of the applicant in the promotion list for the post of Deputy Manager. Again on 10.9.84 another representation was made to the same authority against his supersession for promotion from Asstt. Manager to Deputy Manager. Therefore, this is not a case of giving representation to the higher but to the same authority with a gap of 7 years. It can not, therefore, be said that there is no negligence on the part of the applicant. In the case of State of West Bengal Vs. Administrator, Howrah Municipality (AIR 1972 (Vol.59) SC 749) it was held that the expression 'sufficient cause' should receive liberal construction so as to advance substantial justice but not when negligence or inaction or want of bonafide was imputable to a party. Further, cause of action arising more than 3 years ~~or~~ before constitution of Tribunal cannot be entertained by us (Mr.C.N. Lok Nathan & ors. Vs. UOI & ors.) (1989 (9) ATC 61). If settled issues of promotion of 1977 are raked up, this will result in unsettling very old cases and creating administrative complications. The Law of limitation is not an empty technicality. It has been specifically provided for under the Administrative Tribunal Act and has to be duly respected.

8. In the above view of the matter the application is dismissed on grounds of limitation, with no orders as to costs.

I.P.Gupta
(I.P.GUPTA) 3/7/92
MEMBER(A)

3.7.92.
(RAM PAL SINGH)
VICE CHAIRMAN(J)