

(14)

Central Administrative Tribunal
Principal Bench, New Delhi.

D.A. No. 1723/1988

New Delhi, This the 23rd Day of March 1994

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Shri Sant Ram Tyagi
S/o Ghan Shyam Tyagi
Junior Scientific Assistant-I
Quality Assurance Establishment Metals,
Ordnance Factory, Muradnagar
District Ghaziabad -201206
(Uttarpradesh)

...Applicant

By Advocate Shri R L Sethi

Versus

1. Union of India Through
Director-General
Quality Assurance,
Ministry of Defence,
Department of Defence Production
New Delhi - 110011.
2. Shri K.B. Dasgupta
Sr. Scientific Asst,
Collectorate of Quality Assurance (Metals)
Ishapore(W.B.)
3. Shri Jain Singh
Sr. Scientific Assistant
Collectorate of Quality Assurance (Metals)
Muradnagar
Distt. Ghaziabad - 201206.

...Respondents

By Advocate Mrs Pritima Kumar Gupta

O R D E R

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. The applicant was appointed as Junior Scientific Assistant Grade-I Scale Rs.425-700(pre-revised) as a direct recruit in the Inspectorate of Metals, Katni with effect from 17.8.77. It is stated by the applicant that respondents No.2 and 3 are departmental promotees to the post of Junior Scientific Assistant and the same were promoted with effect from 18.10.1977 and 29.12.1977 respectively. The respondents issued S.P. Roll of Junior Scientific Assistants Grade I and it was noted by the applicant that a number of promotees who had joined the department subsequent to the applicant's date of

joining have been shown as senior to him. Aggrieved by this the applicant submitted a petition dated 31.5.84 and it was rejected by the Director General of Inspection on 25.5.85. Not satisfied with the reply the applicant further represented on 4.2.86. But his representation was withheld and it was advised by a letter dated 9.4.86 which reads as under:-

"Reference your letter No.ADM-688/C/CON dated 04.2.86.

The issue has been considered and it is observed that the criteria for promotion i.e. the method of selection is prescribed in the Recruitment Rules which are statutory in nature, are framed in accordance with proviso to Article 309 of the Constitution. The DPC have followed the same criteria while recommending promotion. As per Part III of Appendix 3 of CSR Vol II, Part I, a petition can be withheld if it is against a decision which is declared to be final by law or statutory rule.

As the contents of the petition submitted by Shri SR Tyagi are against the provisions of the statutory rules, the same has been withheld. The individual may be informed accordingly.

This communication was passed on to the applicant by his immediate superior authorities by a letter dated 6.6.86. The applicant submitted a further representation dated 23.5.87 to which no reply has been received so far by him. This OA has been filed with the following prayers:

- i) That the impugned order dated 6.6.1986 be set aside being void and illegal
- ii) That the recruitment rules providing for a different criteria than that set forth by the judicial dictum be declared null and void;
- iii) That the applicant be assigned seniority in accordance with the declared judicial dictum viz. seniority in a cadre grade or service be determined on the basis of continuous efficiation.
- iv) That the applicant be promoted to the next grade of Senior Scientific Assistant Scale Rs.550-900 (Pre-revised) from the date of his next juniors viz. Respondents No.2 & 3 were promoted and
- v) That the applicant be granted consequential financial relief with retrospective effect.

(15/2)

2. We note that the representations of the applicant was disposed of by a letter dated 6.6.86 (Annexure I) and further representation cannot be taken as a fresh cause of action. In AIR 1990 SC 10 (SS Rathore Vs State of MP) it has been held that repeated unsuccessful representations not provided in the law do not enlarge the period of limitation. It was further held that repeated representations and memorials to the President etc. do not extend limitation. ~~Here~~ We also see from the record that this OA was filed only on 5.9.88 i.e. after lapse of more than two years after the disposal of the representation vide respondent's letter dated 6.6.86. This ^{application} is barred by limitation and hence this OA is not maintainable.

3. The respondents have stated in the reply that seniority has been arranged as per CPRD 73/73 which were the extant instructions applicable at that time. The learned counsel for the respondents mentioned across the bar ^{may the principles of fixation of} ~~during his representation~~ seniority have been changed subsequent to 1979. But in view of the grounds of limitation on which this OA is being disallowed, we do not propose to go into other aspects. This OA is dismissed accordingly. No costs.

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
Member(A)

C. J. Roy
(C.J.ROY)
Member(J)

22/3/94

LCP