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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 690/88

Date of decision: 7.9.1993.

Shri Prem Nath Sharma

...Petitioner

Versus

Union of India through the
Director General, Council of
Scientific Industrial
Research, Rafi Marg, New
Delhi & Others

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri B.B. Srivastava, Counsel.

For the respondents

Shri A.K. Sikri, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri B.B. Srivastava and Shri A.K. Sikri, learned counsel for the petitioner and respondents respectively. The petitioner has prayed for the following reliefs:-

- i) To direct the respondents to give the applicant regular promotion as Stores Assistant Grade-V with effect from 26.2.1982, when the DPC met and selected applicant's junior Shri R.C. Gupta;
- ii) direct the respondents to give the applicant his due seniority as stores Assistant Grade-V with effect from 26.2.1982.

2. The petitioner was promoted to the grade of Stores Assistant Grade-V on ad hoc basis with effect from 20.8.1981 in the pay scale of Rs.425-700. He was regularised in the said post with effect from 28.5.1985. The grievance of the petitioner is that the new recruitment rules/guidelines for filling up the said post were issued

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by the respondents on 26.2.1982 which came into force on 1.2.1982. The respondents also merged the cadres of the stores and the purchase wings from that date. According to the new guidelines the selection for the post of Stores Assistant on a regular basis was accordingly to be held by considering eligible candidates from both the streams which formed a common cadre after the merger. The respondents, however, held a Departmental Promotion Committee (DPC) on 26.2.1982 and considered the candidates from the stores and purchase branches separately in violation of the guidelines issued on 26.2.1982. Had the respondents followed the revised/new guidelines which came into force with effect from 1.2.1982, the petitioner would have been selected to fill up the post of Stores Assistant Grade-V on a regular basis, as in the merged cadre he was assigned much higher seniority on the basis of length of service. The respondents in their counter-affidavit have taken the preliminary objection that the petition is time barred inasmuch as the cause of grievance for the petitioner arose on 26.2.1982 while the O.A. has been filed on 18.4.1988. The petitioner made his first representation against the above selection held in February, 1982 on 17.5.1984 which was rejected on 1.3.1985. In that view of the matter the petition deserves to be dismissed on the ground of limitation itself. On merits the respondents submit that on 26.2.1982 when the DPC met, the candidature of the petitioner was also considered for the vacancy which was available in the stores branch. The petitioner, however, did not find a place in the select list, as his senior one Shri P.D. Aggarwal was selected for the said post. The DPC which met on 26.2.1982 was held to fill up the vacancies which

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had arisen prior to 1.2.1982 when the new rules came into force. Since the vacancy pertains to the period prior to the notification of the new rules the petitioner's claim for consideration under the new rules cannot be legally sustained. The respondents have also come on record by making a clear statement that the vacancies which existed in the Institute prior to 1.2.1982 were required to be filled up by appropriate DPC in accordance with the old rules before 28.2.1982.


3. Shri A.K. Sikri, learned counsel for the respondents submitted that the petitioner has no case on merits, as in any case he was considered for promotion in the stores branch in accordance with the seniority. He could not, however, be promoted on regular basis, as the post went to the seniormost person in that branch.


4. Shri B.B. Srivastava, learned counsel for the petitioner, however, asserted that the vacancies which were filled up on 26.2.1982 related to the period after the new rules were notified, as according to him the vacancies prior to 1.2.1982 were filled up by a DPC held in August, 1981. This contention, however, is repelled by the respondents.

5. We have considered the submissions made by the learned counsel for both the parties and also perused the record. Respondent No.3 has also filed a counter-affidavit which has been taken into consideration. In our opinion, the petition is time barred under Section 21 of the Administrative Tribunals Act, 1985. The cause of action for the petitioner arose in February, 1982. He made a representation seeking redress of his grievance on 17.5.1984. The said representation was rejected on

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1.3.1985. The O.A. is accordingly time barred. Even on merits the petitioner has no case inasmuch as that the respondents have come on record to state that the vacancies which were filled up on 26.2.1982 related to the period prior to 1.2.1982. These vacancies had accordingly to be filled in accordance with the old recruitment rules. The new rules which came into existence from 1.2.1982 were to regulate promotion against the vacancies which arose after 1.2.1982. In view of the clear and unambiguous statement of the respondents we have no reason to not to accept the same. In the above facts and circumstances of the case, the petition fails and is dismissed, first, as barred by limitation and secondly for want of merit. No costs.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

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