

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 932 of 1986
TAX NO.

DATE OF DECISION 3.8.1987

Sh. Sharan Paul Singh Petitioner / Applicant

Applicant in person Advocate for the Petitioner(s)

Versus

Chief Election Commissioner Respondent

Shri P. H. Ramchandani Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No


(S. P. MUKERJI)
ADMINISTRATIVE MEMBER

(7)

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Chief Election Commissioner . . . Respondent
of India & Others

Shri P.H.Ramchandani . . . Counsel for Respondents

CORAM

The Hon'ble Shri S. P. Mukerji, Administrative Member

JUDGMENT

The applicant who is now working as Section Officer in the office of the Election Commission has moved this application dated 8.10.1986 under Section 19 of the Administrative Tribunals Act, 1985 praying that he should be given two premature increments in the scale of Assistants and that his pay in that grade should be stepped up to that of ~~the~~ ⁶ promotee Assistants who were promoted after October 1968.

2. The brief facts of the case are that the applicant was nominated for appointment as Assistant in the office of the Election Commission in October 1968 on the results of the Assistants' Grade Examination, 1968 held by the UPSC. Since the Election Commission was

not sure about the character of the vacancy against which the applicant should be appointed, the matter remained under correspondence amongst the Election Commission, Ministry of Home Affairs, UPSC and Ministry of Law, as a result of which the offer of appointment could be issued to him only in February, 1971. He joined as Assistant on 1.3.1971. The Election Commission was fair enough to give to the applicant notional seniority above those who had been promoted as Assistants between 1968 and 1971. The applicant has no grievance insofar as his seniority is concerned, but he wants that he should be given two increments in the Assistants' Grade as if he joined in 1968 ^{but} instead of 1.3.1971 without any arrears for that period. The respondent's case is that despite several attempts the question of grant of increments which had been raised by another candidate Shri Thomas Mathew could not be accepted by the Government in the Ministry of Finance and Department of Personnel and Administrative Reforms. The respondents have also argued that the applicant had originally represented for his appointment to be preponed to 1968 with all consequential benefits. But his representation and appeal thereto were rejected till April 1975. Another officer who was similarly placed represented in 1978 for two permanent increments as prayed for by the applicant before ^{^ 6} the Tribunal in the instant application, and the Election Commission took the case of Shri Mathew

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with the Government but the request of Shri Mathew was also rejected. Even when the applicant and Shri Mathew took the case to the Minorities Commission in 1982 the Government did not agree. For the first time, the applicant represented for the benefit of two premature increments under F.R.27 in April 1986 but the ^{same} ~~was~~ was rejected on 19.6.1986 as the case could not be reopened.

have

3. I heard the argument of the applicant Shri Sharan Paul Singh and Shri Mendiratta, Under Secretary (Legal) of the Election Commission and gone through the documents carefully. I have also gone through the relevant file of the Election Commission in which the representations and appeals of the applicant were considered. It is admitted by the applicant having joined as Assistant in 1971, he represented in 1973 for appointment as Assistant ^{that} ^{proposing him} since 1968 with all consequential benefits. His representation and appeal were both rejected by 1975. Though the applicant avers that between 1975 and 1979 he ^{has} made several representations but the ^{same} ~~was~~ ^{has} not accepted by the respondents and the applicant has also not been able to give any document^{or} proof of his representation. However, in 1978 the question of grant of two advanced increments was taken up by the respondents on the representation of Shri Thomas Mathew and the case of the applicant was also clubbed by them with that. But the request of Shri Mathew was rejected in 1979. The applicant and Shri Mathew took up the matter with the Minorities Commission between 1979 and

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again they ^h and 1982 but did not succeed again. Between 1982 and April 1986 the applicant did not make any representation and his representation of April 1986 was rejected by the respondents on 19.6.1986 with the remarks "that the matter had been taken up earlier and the same cannot be reopened".

4. From the conspectus of the facts and circumstances of the case it is clear that the applicant kept quiet between 1971 and 1973, again between 1975 and 1979, and again between 1982 and April 1986 and did not move any court of law to get redress. However, since for the first time he sought ^h exclusively the benefit of two advance increments under F.R.27 in April 1986 and the same was rejected on 19.6.86, it will be unfair to reject his application before the Tribunal as time barred. His case for two increments was intermeshed originally with the question of postponing his appointment as Assistant and later on with the case of Shri Thomas Mathew.

5. During the course of ~~the~~ arguments it transpired that the applicant was promoted as Section Officer in April 1986 and if he had been given the two advance increments as Assistant, he would have got the benefit of one increment in the scale of Section Officer.

6. On merits of the case we feel that since his delayed appointment was ^{due to} no fault of his and he did not contribute in any manner to the delay, he need not have been deprived of the notional increments which he

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has now prayed for. However, I cannot overlook the years of silent ~~acquiescence~~ which the applicant evinced for long spells of time. I am most reluctant to re-open old and stale cases but since in this case nobody else is being affected in seniority or promotion I feel that the applicant has a case in equity. The applicant seemed to have appreciated the infirmity of his case and indicated before the Tribunal in the course of the arguments that if he is allowed one increment in the Section Officer's post on the basis of two notional increments in the grade of Assistants, he would not press for any arrears of pay in the Assistant's grade. I think that in the interest of justice and equity the applicant's modified prayer before the Tribunal should be accepted by the respondents.

7. I, therefore, allow the application in part with the direction that his pay in the grade of Section Officer with effect from the date of his promotion as Section Officer should be revised by allowing one additional increment in the grade of Section Officer with consequential arrears of pay and allowances in the Section Officer's grade. He will, however, not be given any arrears of pay during the period he worked as Assistant. The application is disposed of on the above lines. There will be no order as to costs.

S. P. Mukerji
3.8.87
(S. P. MUKERJI)
ADMINISTRATIVE MEMBER