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

O.A.NO. 935/86

DATE OF DECISION: 7th Feb. 92

SH. H.K. SHARMA

... APPLICANT

VERSUS

UNION OF INDIA & OTHERS ...

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A)

COUNSEL FOR THE APPLICANT : SH. R.L. SETHI

COUNSEL FOR THE RESPONDENT : MRS. AVNISH AHLAWAT

JUDGEMENT

(of the Bench delivered by Hon'ble Mr. T.S. Oberoi, Member(J).

In this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged his position in the combined seniority list of P.T.Is. (Annexure 9, Page 23 of the OA). His grievance is that he has not been properly placed in the said list and, as would be evident from the bare perusal of the said seniority list, he having joined on 9.5.1962 (Col.6 of the Seniority List), as against the date of joining of Respondent No.7, Sh. U.S. Yadav, as on 22.1.1972, and the applicant having been declared permanent much earlier than Respondent No.7, showing of Shri Yadav as senior to the applicant, was wrong, arbitrary, malafide, and against the rules. His further plea is that

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inspite of a number of representations against this injustice having been submitted and no redress having been granted so far, he has come by way of the present O.A. He has accordingly prayed for the following relief:-

(i) that the grant of selection grade to Respondent No.7 on the basis of wrong seniority list prepared and finalised by illegal merger of two separate cadres having separate Recruitment Rules and being violative of seniority Rules 1954 and 1965 be declared null and void;

and

(ii) that the applicant who is not only confirmed in the appointment but was recruited much earlier than the Respondent No.7 who is not only temporary but joined service much later be declared eligible and entitled to PTI selection grade Rs.740-880/- from the date it became due.

2. In the counters filed on behalf of the respondents, the applicant's case was opposed. A preliminary objection was raised that the applicant has been agitating the same matter again and again, as he had filed a Writ Petition in High Court of Delhi,

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which was dismissed on 4.5.1984, with the following order:-

"We have heard the learned counsel and we find no merit in the petition. Dismissed.

The petitioner of course is at liberty to pursue the matter with the Department."

3. Though the High Court gave the applicant the right to pursue the matter with the department, and the department, after thoroughly reconsidering the matter, has once again rejected his case, this does not mean that he has the right to reagitate the matter again, before this Tribunal, on the same subject, as it would be barred under the principles of 'Resjudicata', besides being grossly belated and time-barred. It is well-settled that matters like seniority which are once settled, should not be allowed to be raked up, to unsettle the settled positions. Moreover, repeated representations would not extend the limitations as held in S.S. Rathore⁽¹⁾ Vs. U.O.I. & G.S. Mann⁽²⁾ Vs. High Court of Haryana & Punjab & Ors.

4. On merits, it was stated that so far as case of Respondent No.7, against whom the applicant nursed the grievance, in particular, the former was appointed

1. AIR 1990 SC 10

2. 1980(4) SCC 266

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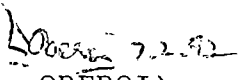
in the scale of Rs.170-380 as Hostel Superintendent, whereas applicant was initially appointed in the scale of Rs.130-300/-, and that Respondent No.7 was selected directly as P.T.I. (Senior) from the scale of Rs.170-380/-, for which graduation from a recognised University or its equivalent, Diploma or Certificate in Physical Education, and Three Years' practical experience in the line, were the requirements. As against that, the applicant was still not even a graduate, and hence, Respondent No.7, was rightly shown as senior to the applicant, in the final seniority list. Allegations of malafides were also vehemently denied.

5. We have heard the learned counsel for the parties. The learned counsel for the applicant pleaded that as held in Collector, Land Acquisition, Anantnag Vs. Katiji,⁽³⁾ if interests of justice call for, courts should not allow the technicalities like limitation, etc. to stand in the way.

6. We have carefully perused the pleadings of the parties, together with the material placed by them on record. We also carefully perused the citations relied upon them, during arguments, in support of their respective contentions. As pointed out by the learned counsel for the respondents, applicant's

case had earlier been rejected by the High Court of Delhi, on 4.5.1984. Even, thereafter, the matter was considered at the level of Chief Secretary, Delhi Administration, but no merit was found in his case. In P.S. Sadasiva Swamy Vs. State of Tamil Nadu,⁽⁴⁾ it was held that delayed and stale matters should not be entertained so as to unsettle the settled matters. We accordingly reject the O.A. being barred by the principle of 'Resjudicata', besides being grossly belated and stale. In the circumstances, however, we make no order as to costs.


(I.K. RASOTRA)
MEMBER(A)


(T.S. OBEROI)
MEMBER(J)

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