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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: DELHI

Date of Decision 10.11.89

Regn. No. OA 946/86

Hoshiar Singh & Others ... Applicants

vs

Chief Secretary, Delhi ... Respondents
Administration & others

CORAM:

Hon'ble Mr Justice Amitav Banerji, Chairman
Hon'ble Mr. B.C. Mathur, Vice Chairman (A)

For the Applicants ... Shri S.L. Nim, counsel

For the respondents ... Shri G.C. Lalwani,
counsel.

(Judgement of the Bench delivered by
Hon'ble Mr Justice Amitav Banerji, Chairman)

Shri Hoshiar Singh and two others, Shri Jagjit Singh and Banta Ram have filed this Application under Section 19 of the Administrative Tribunals Act, 1985. and have prayed that Applicants' confirmation may be ordered to be effective earlier than 8.1.76 - the date from which their juniors were confirmed and to restore their seniority from 8.6.71.

The Applicants' case is that they were promoted as Head Constable w.e.f. 8.6.71. Respondents No.3 to 6 were four other Head Constables in the Delhi Police who belonged to Scheduled Caste community had been promoted on 15.10.71. On the 8th of January, 1976, respondents

No. 3 to 6 were confirmed but the applicants were placed on probation for two years by an order of the same date. The applicants were thereafter promoted as Assistant Sub Inspectors on 14.4.86. The applicants were aggrieved by the order dated 8.1.76 by which they were placed on probation for two years whereas their counter-parts and juniors, respondents No. 3 to 6 were confirmed. The applicants had represented to the Police Commissioner, Delhi in July, 1986. The letter was replied in the month of September, 1986 by the Deputy Commissioner of Police, Headquarters, which the applicants considered to be evasive, irrelevant and wrong interpretation of rules. Thereafter, the applicants filed the present O.A. before the Tribunal on 30 October, 1986. //The respondents in their reply pointed out that while Shri Hoshiar Singh and Jagjit Singh were promoted w.e.f. 8.6.71, Head Constable Banta Ram was promoted from 1.6.71. It was also admitted that Shri Hoshiar Singh and Jagjit Singh were placed on two years probation period w.e.f. 8.1.76 and Head Constable Banta Ram was similarly placed w.e.f. 26.2.75 against 20% quota of over age constables. They were confirmed w.e.f. 8.1.78 and 26.2.77 on the expiry of two years probation period. The four Scheduled Caste Head Constables, respondents No. 3 to 6 after passing the Lower School Course were confirmed w.e.f. 8.1.76, after counting their two years probation period, before the date of availability of permanent post, as provided in

the Rules. The cases of the applicants and respondents No. 3 to 6 are not identical and the material facts and dates were different. The reason why the applicants could not be promoted was that vacancies for confirmation were not available from List 'C' and consequently

applicants were placed on 2 years probation. It was also urged that the applicants should have prayed to ante-date their confirmation and should have filed an appeal immediately after the issue of the orders instead of filing the present Application after 9 or 10 years.

Learned counsel for the applicants laid great emphasis on the Punjab Police Rules and corresponding provisions in the Delhi Police Act and urged that there was an error in placing the applicants on probation for two years on 8.1.76 whereas their juniors, respondents No. 3 to 6 were confirmed on the same date and as such, there was discrimination. From the trend of his argument it was apparent that the applicants were aggrieved by the order dated 8.1.76 and they were claiming that they should have also been confirmed on that date and placed ahead of respondents 3 to 6. In other words, the main grievance of the applicants was in regard to the order dated 8.1.76.

This leads to another question and a question that goes to the root of the matter. Is it open to the

applicants to invoke jurisdiction of the Tribunal in respect of a matter that arose long before the coming into force of the Administrative Tribunals Act? Section 21 of the Act refers to limitation. It is well settled that the Tribunal cannot entertain any matter or adjudicate upon any matter in which cause of action arose prior to 1.1.82 (See V.K. Mehra vs Secretary, Ministry of Information and Broadcasting -A.T.R. 1986 C.A.T. 203). Reference may be made to the case of J.Guruswamy vs Council of Scientific and Industrial Research, New Delhi (ATR 1988 ATC(Vol.6) 24) wherein the Division Bench sitting in Bangalore was considering a case where a cause of action had arisen on 1.1.82 which was more than three years prior to the coming into force of the Act, held that -

"Therefore causes of action which arose more than 3 years prior to the establishment of this Tribunal are not within the jurisdiction of this Tribunal and no application with respect thereto can be made in respect thereof. This Tribunal cannot assume jurisdiction in such cases by condoning delay in filing an application."

In the case of Amin Singh Tyagi vs Delhi Administration (ATR 1989(1) 227) a Division Bench of the Tribunal held that a cause of action which arose on 22.5.74 was barred by time and as such no relief could be given.

The Division Bench in the case of R. Sangeetha Rao vs Union of India (O.A. No.352/87 decided on 16th August, 1989 had referred to the above and took the

view -

"It is, therefore, clear that the Tribunal has been taking a consistent view that any cause of action which arose before 1.11.82 would be not within the purview of the Tribunal."

However, in the same judgement, it was made clear that there is one exception to the above rule. The Bench expressed itself thus:


"The exception is that in case there is a recurring cause of action, e.g. payment of salary or pension, then the above law laid down by the Tribunal, as mentioned above, will not hold good. If the cause of action brings the case within the orbit of Section 21(2), it will still be entertained in principle."


In the present case, there is no continuing cause of action. The cause of action of not being confirmed on a particular date is not a continuing cause of action. The filing of a representation 10 years later would not extend the period of limitation. Consequently, the argument that the applicants made a representation in 1986 which had been replied to in September, 1986 brought the case within limitation, is wholly untenable. We reject the same.

In view of the above, we do not deem it necessary to go into the merits of the case for, in our opinion, the claim is stale one, barred by limitation and the

Tribunal has no jurisdiction to decide any such case.

The O.A. is accordingly dismissed but we leave the parties to bear their own costs.


(B.C. Mathur)
Vice Chairman(A)


(Amitav Banerji)
Chairman

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