

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. D.A. 1500/87. DATE OF DECISION: 10.2.1993

M.S. Beg.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner.

... None.

For the Respondents.

... Shri P.P. Khurana,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

None appears for the petitioner. Shri P.P. Khurana, Counsel, is present on behalf of the respondents. As this is a very old matter, we consider it proper to look into the records, hear the learned counsel for the respondents and dispose of this case on merits.

2. The petitioner's claim is for grant of promotion on completion of 16 years service as on 30.11.1983. That the petitioner fulfilled the condition for grant of one time promotion is not disputed. The promotion was not granted though the petitioner fulfilled the condition because by the time, namely on 5.9.1985, the petitioner was subjected to two disciplinary proceedings for some minor misconduct in which he has been imposed punishment of with-holding increment for three months in one case and six months in another case. We are inclined to take the view that as on the date the petitioner became eligible for grant of promotion, namely, on 30.11.1983, no disciplinary proceedings were pending against him. The authorities were not justified in denying the promotion to him. Hence, the petitioner is entitled to grant of promotion in this case.

3. So far as the punishment imposed in this case is concerned, we find that the petition is very clumsily framed. In this case, the petitioner appears to have prayed for quashing of the two orders of punishment dated 21.3.1985 and 22.3.1985 affirmed by the appellate orders dated 5.1.1987. It is necessary to note that the appeals of the petitioner have been dismissed on the ground that they are barred by limitation. The petitioner appears to have approached the very same authority which imposed the order of penalty bonafide believing that he can file appeal to the same authority. There was some delay on the part of the petitioner in approaching the appellate forum. This factor should not have been taken into consideration by the appellate authority and condoned the delay while entertaining the appeal of the petitioner. We are, therefore, inclined to take the view that the appellate authority should take lenient view in dealing with the petitioner's appeal. Hence, this is a fit case to interfere with the appellate orders and remit the cases to the appellate authority.

4. For the reasons stated above, this petition is allowed. The respondents are directed:

- (1) to accord the benefit of promotion to the petitioner w.e.f. 30.11.1983 and to grant him all consequential monetary benefits;
- (2) If on the basis of promotion, the petitioner is entitled to cross the E.B., the same shall be considered in accordance with law;
- (3) The orders of the appellate authority dismissing the appeals against the orders dated 21.3.1985 and 22.3.1985 imposing the penalty of withholding increments for three months and six months respectively dated 5.1.1987 are hereby quashed and the cases are remitted to the appellate authority.

Telecom Divisional Engineer, Bareilly for fresh

disposal treating the appeals as having been filed in time.

(4) No costs.

Antoligic
(S.R. ADIGE)
MEMBER(A)

Malimath
(V.S. MALIMATH)

CHAIRMAN

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