

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

O.A. 1632 of 1987  
with M.P. 172 of 1988

Date of Order : 26.04.1990

B. S. Arora

... Applicant

-Versus-

Union of India & Others

... Respondents

Counsel

... Mr. G. D. Bhandari for Applicant.  
None for Respondents.

CORAM : HON'BLE MR. G. SREEDHARAN NAIR, VICE CHAIRMAN  
HON'BLE MR. P. C. JAIN, MEMBER (ADMINISTRATIVE)

ORDER

( G. Sreedharan Nair, Vice Chairman ) :

This application has been filed by the applicant to hold that his pay should have been fixed at Rs.1,000/- P.M. on 1.8.1977 and his increments fixed accordingly. According to him he should have been allowed to cross his Efficiency Bar with effect from 1.8.1973, and that when he was allowed to cross the Efficiency Bar in the year 1977, he had become entitled to four increments which had accrued in the meanwhile but not allowed.

2. In the reply filed on behalf of the respondents it is stated that for crossing the Efficiency Bar the person working in the post of Assistant Engineer should have passed the departmental examination and should have good records. It is pointed out that the applicant passed the examination held on 15.7.1975 and became eligible for being considered for crossing the Efficiency Bar only with effect from 16.7.1975 and accordingly his case was considered by the competent authority but based on the records of his performance he was not found fit at that stage. It is stated that the competent authority permitted the applicant to cross Efficiency Bar with effect from 1.8.1977 without any benefit of past service. In the circumstances it is contended that there is no case for refixation of pay or for payment of arrears. The respondents have also raised a plea that the application is barred under Sections 20 and 21 of the Administrative Tribunals Act.

3. The applicant has filed M.P. 172/88 for condoning the delay for filing the O.A. It is urged therein that the cause of action in fact accrued only in June, 1985 <sup>when</sup> ~~and~~ the appeal submitted by the applicant was turned down.

4. The O.A. has been filed only on 16.4.1987. As such even assuming that the cause of action arose only from June, 1985, the application is barred by limitation in view of Section 21 of the Administrative Tribunals Act. In the petition M.P. 172/88 there is absolutely no whisper as to why the application was not filed within the prescribed period after the disposal of the appeal.

5. The relief claimed in the application being only for the fixation of pay of the applicant which is essentially based on the accrual of the increments, when it is admitted that in the year 1979 orders were passed permitting the applicant to cross the Efficiency Bar only with effect from 1977 and not from 1973 as claimed by the applicant, really the cause of action arose from that date. It was stated by the counsel of the applicant that repeated representations were being submitted against the denial of permission to cross the Efficiency Bar with effect from 1973 and thereafter the applicant has also retired from service and as such the delay should be condoned in the interest of justice. We are unable to accept this submission. When there is absolutely no satisfactory ground, urged in the petition for condonation of delay, <sup>it</sup> cannot be <sup>accepted</sup> as a matter of course.

6. It is seen from the records that the application was admitted by a Bench of this Tribunal on 24.5.1988 with the specific direction that the question of limitation will be decided at the time of final hearing.

7. In view of what has been stated above, M.P. 172 of 1988 is hereby dismissed.

8. As the M.P. seeking condonation of delay in filing the O.A. is dismissed, the O.A. is also dismissed.

( P. C. Jain ) 24/4/1990  
Member (A)

( G. Sreedharan Nair )  
Vice-Chairman