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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. No. OA 694/87

Date of Decision 29-6-87

Shri B.K. Rampala

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Applicant

Vs.

Union of India & Others

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Respondents

CORAM:- Hon'ble Mr. Birbal Nath, Member (A)
Hon'ble Mr. G. Sreedharan Nair, Member (J)

For the applicant

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Sh.E.X.Joseph, Advocate

For the respondents

.....

Sh. P.H.Ramchandani, Senior
Advocate and Sh.K.N.R.
Pillai, Advocate.

(Judgement of the Bench delivered by Hon'ble
Mr. G.Sreedharan Nari, Member (J)).

O R D E R

Heard Shri E.X. Joseph, counsel for the applicant as well as Shri P.H.Ramchandani, senior counsel on behalf of respondent No. 1 and 2 to whom notice was issued. Also heard Sh.K.N.R.Pillai, advocate who has entered appearance on behalf of the other respondents.

2. Respondents seriously oppose the admission of the application.

3. The relief claimed is to quash the orders dated 7.1.1987 and 31.5.85, and to direct the respondent No. 1 and 2 to re-consider the claim of the applicant for promotion to the cadre of Stenographer Grade B during the year 1977.

4. The case of the applicant is that though he was eligible to be included in the panel for promotion to the cadre of Stenographer Grade B in regular vacancies which were then in existence, his name has been improperly and illegally omitted in the list that was prepared by the D.P.C. in the year 1977 (copy at annexure A-4).

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This list is dated 20th August, 1977. According to the applicant he was discriminated in the process of selection and it was with a view to give undue advantage to others with less merit than himself that he was not included in the list. On reading the application we are satisfied that the grievance of the applicant has arisen out of his non inclusion in the select list published on 20th August, 1977. If that be so, the applicant cannot be allowed to impeach the same at this stage. However, the counsel for the applicant submitted that in view of the orders dated 31.5.85 and 7.1.87 by which the representations presented by the applicant against the said list were turned down, the application is within the period of limitation. Counsel emphasised that this being an application for quashing the order of the Railway Board dated 7.1.1987, this application filed in May 1987 is well within the period of limitation. Reliance was placed on Section 19 of the Administrative Tribunals Act, where it is provided that a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to the Tribunal for the redressal of his grievance. This submission of the counsel for the applicant was countered by the counsel for the respondents who stressed that as the real object of the applicant is to challenge the list published in 1977, the application filed after the lapse of 10 years is hopelessly barred by limitation.

5. After hearing the counsel on either side and on an anxious consideration of the application and the documents produced alongwith the same, we are not in a position to admit the application as it is patently barred by limitation.

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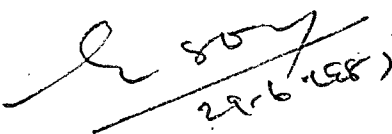
6. Under Section 21 of the Administrative Tribunals Act, it is provided in Sub-Section (2) thereof that where the grievance in respect of which an application is made has arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal become exerciseable under this Act application shall be entertained if it is made within the period specified. Evidently the applicant cannot avail the benefit of the said provision. As such the counsel for the applicant was solely relying on the circumstance that there is an order dated 7.1.1987 passed by the Railway Board and as such this application having been filed for vacating that order has to be treated as filed in time. It was submitted by him that said order has been passed after consideration of the case of the applicant and hence the applicant gets the cause of action from the date of said order. On a conspectus of Sections 19, 20 and 21 of the Administrative Tribunals Act what is really to be looked into is whether the grievance alleged by the applicant and which has furnished him a cause of action to approach a Court of Law is within the prescribed period of limitation. Merely because after the accrual of the grievance and the consequent accrual of the cause of action a representation which is not of a statutory nature or is provided in the service rules, has been filed and has been rejected on the eve of filing of an application before the Tribunal, if the cause of action is to be deemed as commencing from that date it will be to set at naught the prescription of limitation under Sections 20 and 21 of the Administrative Tribunals Act. The party who is aggrieved by a Governmental action has to approach the court of law at the earliest, at any rate within

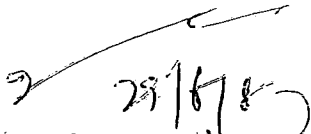
a reasonable period. In the instant case the applicant has given a representation on 17.10.1979, which itself was about two years after the publication of the select list. True, even before that he had filed a number of representations. Evidently he is not seen to have pursued the matter after the representation of 17.10.1979 was filed. What is seen from the record is that thereafter it was only on 19.1.85 when he gave a fresh representation praying that " with the taking over by the new Government and emphasis on result-orientation we have sanguine hope that our case of injustice lingering on for the last about 7 years will receive sympathetic and prompt consideration". From the wording of the said representation it is clear that the alleged injustice was allowed to linger for a period of 7 years. This representation dated 19.1.85 was turned down by the order dated 31.5.85, which is one of the orders sought to be challenged in this application, and which has been held that no change in the position of the applicant in the seniority list is called for. Again further representation was filed on 13.11.1986 which was after coming into force of the Administrative Tribunals Act and establishment of this Tribunal. This too was turned down pointing out that the case of the applicant was considered but it has not been found possible to change the decision already communicated to him. It was submitted by the counsel for the applicant that since the order states that the case of the applicant has again been considered by the Railway Board it offers the applicant a fresh cause of action. We do not agree. We can read the order only as meaning that instead of simply not taking note of the representation they have looked into the case in the light of the previous order but found it not possible to change the decision. It is only in the normal course of official business that when an employee makes a representation alleging a grievance, though it is

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concluded by a weary decision, Reply is given to him stating that on considering his case the authority does not find it possible to change the decision. If every such order on a representation of the applicant is to be considered as an order falling within Section 19 of the Administrative Tribunal Act, ~~the purpose or bar of~~ ^{the} limitation provided under Section 21 of the Act will be rendered as ~~fictitious~~. ^{those}

7. In the circumstances, we hold that application is not entertainable by the Tribunal, as ^{it is} barred by limitation. Hence we reject the same.


(S. Sreedharan Nair)
Member (J)


(Birbal Nath)
Member (A)

Dated:- 29-6-87.