

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A. No. 764 of 1987
T.A. No.

199

DATE OF DECISION 15. XI. 91

<u>Sohan Lal</u>	Petitioner
<u>None</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri O.N. Moolri</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. I.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble
Shri Justice Ram Pal Singh, Vice-Chairman (J).)

JUDGMENT

The applicant, by this O.A., prays for the relief that the applicant be promoted from Parcel Supervisor (Grade Rs. 550-750) to the post of Chief Parcel Supervisor in the grade of Rs. 700-900 (new grade Rs. 2000-3200) with effect from 1.1.84. The applicant also prays for giving seniority in the grade of Parcel Supervisor (Grade Rs. 550-750) and also seniority in the next higher grade of Chief Parcel Supervisor after promotion with effect from 1.1.84. The applicant also prays for being given due seniority with effect from 17.5.77 when he was officiating and was included in the list of panel in the grade of Rs. 455-700.

2. The respondents on notice appeared and filed their return raising preliminary objection that this O.A. is barred by limitation; that the O.A. is also barred by res judicata in view of the High

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Court's judgment (Annexure R-2).

3. This matter was directed to be expedited for final hearing on the M.P. filed by the applicant (M.P. No. 511/89) by orders of the Hon'ble Chairman dated 5.3.89. Since this matter was high up for final hearing, this case was taken up on 6.11.91, but none of the counsel for the parties was present. We, therefore, adjourned it to 7.11.91 but even on 7.11.91, the counsel was not present. The matter was again put up for final hearing on 13.11.91. On this date also, neither the applicant nor his counsel were present. We, therefore, heard the arguments of Shri O.N. Moolri, counsel for the respondents. In order that injustice may not result to the applicant, we have examined the pleadings and the documents seriously.

4. We shall take up the preliminary objections raised by the counsel for the respondents. The applicant seeks the prayer of seniority with effect from 17.5.77 and seeks the relief of promotion with effect from 1.1.84. The Administrative Tribunals Act of 1985 came into force on 27.2.85. This O.A. was filed on 26.5.87. Before coming into force of the A.T. Act, the remedy to the applicant was available either by way of suit in a civil court or by way of a writ petition before the High Court under Articles 226 and 227 of the Constitution of India. If the limitation started running from 17.5.77, then the suit should have been filed within a period of three years from the date of the cause of action. Similarly, ^{within three years} the suit should have been filed from 1.1.84 when the cause of action according to the applicant, arose. But these remedies were not availed of by the applicant within the period of limitation. This O.A. was filed on 26.5.87. On this date, the O.A. was barred by limitation (computing on the basis of 3 year limitation). When this was O.A. was filed, the relief prayed for/with regard to seniority with effect from 17.5.77, it became barred by law of limitation. So far as the cause of action arising on 1.1.84 is concerned, the period of limitation expired on 1.1.87. The O.A. was filed after about 4 months from the date of the cause of action. Thus, this O.A. is barred by limitation. No application has been filed for the condonation of delay. In such a situation, we have to hold that the

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O.A. is barred by limitation.

5. The second point raised by the respondents is that in view of R-2 judgment of the High Court, the O.A. is also barred by law of res judicata. R-2 is a copy of the judgment of the High Court of Delhi in Civil Writ Petition No. 303/80 in which the applicant was the petitioner. We need not dwell much upon the point of res judicata as the complete pleadings of the parties in the Civil Writ No. 303/80 are not before us and we need not adjudicate in the absence of pleadings as to whether the points in this O.A. are the same as in the Writ Petition. The second preliminary objection raised by the respondents with regard to res judicata is rejected.

6. However, as we have held that the O.A. is barred by limitation, this O.A. is dismissed with a direction that the parties shall bear their own costs.

S. L. Gupta
(S. L. Gupta)
Member (A)

Ram Pal Singh
(Ram Pal Singh)
Vice-Chairman (J)