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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

C.A. NO. 1002/87.

Date of decision: 23.7.1993

Mrs Surjit Kumar

... Petitioner.

Versus

The Administrator,
Delhi Administration,
(Service through Chief
Secretary),
Alipore Road, New Delhi & Ors.

... Respondents.

CORAM:

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

For the Petitioner.

Shri V.K. Rao, proxy for
Shri A.K. Sikri, Counsel.

For the Respondent.

Shri P.H. Ramchandani,
Sr. Counsel.

JUDGEMENT (ORAL)

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

The petitioner has come forward with three prayers, one is for fixation of her basic pay from Rs.940 to Rs.1100 per month in the scale of Lady Head of the Department w.e.f. 4.11.1974, the date from which she started holding the additional charge of the duties of the Lady Head of the Department with back-wages and arrears etc. The second prayer is for regularisation of promotion w.e.f. 3.3.1975. The third prayer is for consequent fixation of her seniority.

2. The petitioner joined her career as Assistant Lecturer in Women's Polytechnic on 5.10.1963. She was appointed as ad hoc Lecturer on 25.6.1969 in which post she was regularised on 3.3.1970. She completed her probationary period on 3.3.1972.

Consequent upon arising of the vacancies on 4.11.1974, she was placed in current duties as Head of the Commercial Art Department in addition to her own duties as Lecturer, Commercial Art. Her pay was fixed at Rs.940/- even though the pay-scale of the Head of the Department was Rs.1100-1600. She continued to discharge current duties of the Head of the Department until 26.5.1979 when she was given ad hoc promotion for a period of six months. Her ad hoc promotion was continued till 21.7.1981 when her services were regularised. Her representations for pay grant of fixation of and consequential benefits w.e.f. 4.11.1974 were rejected. The petitioner has approached the Tribunal for relief on 22.5.1987.

3. The question for consideration is as to whether we have jurisdiction to entertain this application. If the cause of action had accrued three years prior to the coming into force of the Tribunal on 1.11.1985, this Tribunal will have no jurisdiction to entertain the application. The question for consideration is as to whether the cause of action in this case had accrued prior to three years /the coming into force of the Tribunal. So far as the claim for fixation of pay is concerned, it arose on 4.11.1974. She continued to draw, according to her own version, the lower pay until she was given ad hoc promotion on 26.5.1979. The relief claimed by the petitioner, therefore, is from 4.11.1974 to 26.5.1979. The cause of action arose long^{back} prior to the expiry of three years before constitution of the Tribunal. So far as the

relief regarding promotion is concerned, the petitioner's case is that she was entitled for promotion on 3.3.1975, the date on which she had completed five years of regular service in the grade of Lecturer. At any rate, she was given regular promotion w.e.f. 26.5.1979, it can be said that the cause of action had accrued in favour of the petitioner in the year 1979. The cause of action had accrued three years prior to the constitution of the Tribunal. Hence, the claim of the petitioner cannot be acceded to. However, learned counsel for the petitioner contended that we have jurisdiction to entertain the application on the ground that the case involved invoking Article 14 of the Constitution. It is contended that as the plea is based on discrimination, the question of limitation does not arise. With respect, it is not possible to accede to this contention. Discrimination may afford a ground for relief. That does not mean that the relief claimed can be entertained without there being any bar of limitation or jurisdiction. In support of this contention, reliance was placed on a decision reported in 1990(3)SLJ(CAT)181 between SHRI TOTA RAM SHARMA VS. UNION OF INDIA & ORS. Our attention was drawn to paragraph 13 of the judgement in this behalf, which is extracted as follows:

"As regards the plea of limitation, we are of the opinion that the same is not tenable in the facts and circumstances of the case. The respondents should not have raised the plea of limitation to defeat the just claims of the applicant who was clearly discriminated against in the matter of promotion; which was given to his juniors years ago. In the case of infringement of a fundamental

right, we also feel that there is a continuing wrong so long as the applicant's grievance has not been redressed. We feel that any claim based on discrimination of pay and allowances can be viewed as a recurring cause of action every month. The respondents on their own ought to have extended the same treatment to the applicant as was meted out to his juniors?

It is clear from the opening words of the above paragraph that the cause was barred by limitation and not barred by jurisdiction. Besides, it is necessary to point out that the present case is not of bar of limitation. The relevant facts in that case which need be noticed are extracted as follows:

"It is stated therein that on 15.3.1985, the respondents passed an order to the effect that 14 employees mentioned therein, who were on deputation to APG during the 1968 strike, may be deemed to have been notionally promoted to LSC grade w.e.f. 1.10.1968. 10 out of the 14 promotees were junior to the applicant".

Thus, it is clear that though the claim of the petitioner in that case for promotion had accrued in the year 1968, the cause of action based on discrimination accrued when the juniors in that case were given promotion in the year 1985 by an order dated 15.3.1985. The injury in that case on account of discrimination was suffered when an order was made on 15.3.1985. Hence, the real cause of action had accrued on the ground of discrimination in the year 1985 and not in the year 1968. It is obvious that the claim of the petitioner in that case was well within time. The said decision is not of

-5-

assistance for the petitioner.

4. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.



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

(V.S. MALIMATH)
CHAIRMAN

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