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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

NEW DELHI

Registration 1077 of 1987

H. S. Joshi applicant.

Versus

Union of India Respondent.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Ms. Usha Devara, Member (W)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

Sri Khurana, learned counsel for the Respondents has raised a preliminary objection in this case about the maintainability of this application. According to him, the application is barred by time because the cause of action accrued in this case before the Tribunal was born~~e~~ i.e. prior to 1965, therefore, the Tribunal has no jurisdiction to adjudicate the matter. Thus, it will be necessary to make the reference of some of the relevant facts ~~for deciding the question~~ to

a) U.D.C

2. The applicant was allotted to the cadre of the Ministry of Works & Housing. The applicant was holding the post of UDC since 7.9.1961 i.e. well before the date of decentralisation. In the year 1972, the department of personnel circulated a common seniority list of UDCs amongst various cadre authorities for making temporary promotions on regular basis upto a specified range of seniority. It was directed by the Ministry that if persons within the specified range of seniority were not available in a particular cadre then the vacancies should be reported to the Department of Personnel for nominating suitable officers for appointment against

(S)

the vacancies. The department of Personnel also requested the cadre authorities to furnish particulars of such UDCs who were within the specified range of seniority and who were considered suitable for promotion to the Grade of Assistant but had no chance of promotion in their cadre for want of vacancies so that they could be considered for nomination to deficit cadres. The name of the applicant was also recommended and it was sent to the C.B.I. which was an attached officer of the MHA (the new cadre to which the applicant was transferred) vide order dated 4.11.1972. The applicant continued to work there upto 16.11.1972, thereafter he came back to his department. The applicant has claimed his seniority but ofcourse, the seniority was denied to him on the ground that he was working on ex-cadre post. The applicant made a representation dated 15.12.1985 clarifying the whole position as to how applicant was retained by the CBI in public interest beyond the date of his selection. He also pointed out ~~that under~~ the provisions of Rule 2(c) of the Central Secretariat Service Rules, 1962. Vide letter dated 23.1.1986 saying that the applicant's seniority had been correctly fixed from the date of joining under the zoning scheme w.e.f. 22.5.1973 as per Rule 3(5) of the BSS (Seniority of Transferred Officers) Regulation, 1963. The applicant again made a representation dated 8.5.1986 pointing out that the applicant's seniority is required to be fixed from the date of selection and not from the date of joining the duty post, and it was thereafter the MHA's vide its letter dated 6.8.1986 informed the applicant that he has been assigned seniority correctly from the date of joining. Thus, according to the applicant, he made representations earlier but the fresh cause of action accrued to him after its denial by the Ministry of Housing vide its letter of the year

- 3 -

1966 referred to above. If the cause of action accrued to earlier, it became the close chapter when the Tribunal came into existence. Although, ^{we} are dismissing this application, but with the observation that it is always open for the Government to consider the question of seniority of the applicant and in case, any injustice has been done by the Government, which is the superior authority and which can always rectify ^{any} ~~the~~ ^{error} done ^{to any case}, there appears to be no reason why the Government will not take the matter in correct prospective after taking into consideration the fact that the applicant worked on the ex-cadre post not of his whim and request but ~~he~~ was asked to work on the ex-cadre post and the benefit of an ex-cadre post cannot be denied in each and every case. for the duration the applicant is concerned No order as to the costs.

A. Sengar
Member (A)

Dated: 22.12.1992

(n.u.)

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Vice-Chairman