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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. O.A. 1190/87.

DATE OF DECISION: 4.1.1993

Rajinder Kumar Jain.

... Petitioner.

Versus

The Director,
Central Potato Research
Institute,
Shimla and anr.

... Respondents.

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

For the Petitioner.

... Shri Ashish Kalia,
proxy for Shri R.L.
Sethi, Counsel.

For the Respondents.

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

JUDGEMENT (ORAL)

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

The grievance of the petitioner in this case is that he was senior to Respondent No. 3 in the cadre of Upper Division Clerks and that, therefore, he was entitled to be considered for promotion to the cadre of Superintendents in preference to Respondent No. 3. The Respondent No. 3 was promoted to that cadre on 31.10.1983. The petitioner's case is that he was appointed as Lower Division Clerk on 15.11.1965 whereas Respondent No. 3 was appointed to that cadre on 13.11.1973. There cannot be any doubt that the petitioner was senior to Respondent No. 3. But so far as the next cadre of Assistants is concerned, Respondent No. 3 stole march over the petitioner as he secured earlier date of confirmation than the petitioner. On the basis of the relevant executive order in this behalf, he was confirmed earlier than the petitioner and in the promotional cadre of Assistants he was regarded as senior to the petitioner. The seniority list was also published in the year 1982. The petitioner did not make any grievance about the same. It is on the basis of the

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said seniority list, Respondent No. 3 was shown as senior to the petitioner. In this petition filed on 16.7.1987, the petitioner complains that the respondents were not justified in promoting Respondent No. 3 ignoring his seniority. The respondents have pleaded that the petitioner's case was also considered along with the case of Respondent No. 3 and the D.P.C. found that the petitioner was not suitable for promotion. This fact is not controverted. Hence, it follows that the petitioner's case was considered for promotion. Even if the promotion is to be made on the basis of the seniority-cum-merit, the person concerned should be suitable for the post. The DPC found that the petitioner was not suitable for promotion. As the case of the petitioner was considered for promotion along with Respondent No. 3, he cannot make any grievance about his promotion. We are, therefore, inclined to take the view that the petitioner cannot make any grievance about the promotion given to Respondent No. 3 on the basis of the said seniority, which has become final, he having been considered by the DPC along with Respondent No. 3. We are also inclined to take the view that the cause of action having arisen in the year 1983, the present petition having been filed on 16.7.1987, the claim of the petitioner is also barred by limitation. Hence, it follows that the petitioner has not made out any case for grant of relief.

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

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

V. S. Malimath
(V.S. MALIMATH)
CHAIRMAN