

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI

OA. No.1267 of 1990

Dated New Delhi, this 6th day of January,1995

Hon'ble Shri J. P. Sharma,Member(J)
Hon'ble Shri B. K. Singh,Member(A)

Shri Zile Singh
Peon, Department of Company Affairs
Ministry of Industries
'A' Wing, Shastri Bhawan
NEW DELHI.

... Applicant

By Advocate: None

Versus

Union of India through

1. The secretary
Ministry of Defence(DGQA)
South Block
NEW DELHI
2. The Inspector
Quality Assurance Establishment
Ministry of Defence(DGQA)
North India, Anand Parbat
NEW DELHI-5
3. The Administrative Officer
Quality Assurance Establishment
Ministry of Defence(DGQA)
North India, Anand Parbat
NEW DELHI-5

... Respondents

By Advocate: Shri V. S. R. Krishna

O R D E R
(Oral)

Shri J. P. Sharma,M(J)

by

The grievance of the applicant is that the order
1.9.70 issued by Inspectorate General of Stores, the
applicant along with others was declared surplus staff on
the basis of the report of Staff Inspection Unit
(hereinafter referred to as SIU). The applicant has also
challenged the order dated 2.7.71 issued by Under

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Secretary to the Government of India, Ministry of Petroleum and Chemicals which effects promotion to certain persons, but the name of the applicant is not on the panel.

2. The applicant has filed this application in May, 1990 and he has prayed for the grant of reliefs that the order dated 1.12.70 be quashed and that the respondents be directed to post the applicant on the post of Viewer in any of the vacancies existing at Ranchi/Chanda/Ambajhari and Central Proof Establishment, Itarasi in terms of the orders No.404/LB of the Respondent No.1&2. He has further prayed that the order dated 2.7.71 making appointment of the applicant as Peon in the pay scale of Rs.70-1-80-1-85 be treated as null and void. It is further prayed that the applicant be allowed the relief treating him as on the post of Examiner Grade-I in the pay scale of Rs.150-5-180 as on the date and with effect from the date of his posting as Peon vide order dated 2.7.71 and such other any orders be passed in the light of the judgement in T.A. No.502/86 Dhanpat Rai Vs UOI decided by the Principal Bench on 20.1.89.

3. The respondents on notice, contested this application and filed their reply. The applicant has also filed the rejoinder.

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4. The case came for hearing before the Principal Bench on 8.8.94 when the applicant or his counsel did not appear and the case was dismissed in default. Subsequently, the applicant filed MA.3285/94 for recalling the ex-parte order dismissing the OA. The said MA was allowed and the OA No.1267/90 was restored to its original number. Now the OA has come for hearing, but today none is present on behalf of the applicant and Shri V. S. R. Krishna appears as counsel for the respondents. We are going to dispose of this case on merits as the applicant has already filed rejoinder to the reply filed by the respondents.

5. The simple facts are that the SIU gave its report, an extract of which is annexed to the counter, whereby the applicant as Viewer Grade 'C' along with 33 others could not be accommodated in the sanctioned post and was declared surplus. There has been a proposal of redeployment and the applicant was offered the same by the memo dated 30.7.71 on the post of Peon in the Department of Company Affairs, Shastry Bhawan, New Delhi. On the basis of the terms and conditions of absorption on redeployment, the pay of the applicant was protected which was Rs.110 (basic pay).

6. We find that by giving the posting as Peon, the applicant has been given full protection of pay

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irrespective of pay existing at that time. The applicant was at maximum of pay scale of Viewer grade 'C'. His basic pay of Rs.110 was protected. Thus the applicant cannot have any grievance on that account. However, for the other reliefs of promotion and posting to other places in the same capacity at Ranchi/Chanda/Ambajhari/Itarsi, we find that the present application is hopelessly barred by time. The respondents in their counter reply has taken their stand that the cause of action accrued to the applicant during the year 1971 when he was offered the post of Peon and he filed the present application twenty years after and as such he cannot claim reliefs at this later stage. What has not been done since then cannot be done now. If the applicant was not satisfied with the terms and conditions of redeployment which was open to him to seek judicial ^{review.} ~~grievance~~ at the relevant point of time. The matter is barred by delay and laches.

7. The jurisdiction of the Tribunal cannot be extended beyond three years from the date when the Tribunal came into being, i.e. on 1.11.85. The applicant wants the benefit since 1971. At that time the competent forum was Civil Court or by a Writ Petition before the High Court. Thus, the claim of the applicant is not only hopelessly barred by time but also it is hit by delay and laches. The Tribunal cannot exercise its jurisdiction in a matter in which the cause of action has arisen in the year 1970-71. The application, therefore, is not maintainable.

8. However, since the case has been admitted and the pleadings in this case are complete, we do find that the pay of the applicant has been protected and he has been appointed on redeployment to the post of Peon in the Ministry of Company Affairs. It was open to the applicant to seek administratively redress of the grievance of posting elsewhere in the capacity of Viewer grade 'C' if so desired and not to join as Peon. Once he has accepted the deployment, he cannot subsequently aspire for any lucrative posting desired by him. The chances of promotion in the case of Peon are also to the Group 'C' post in the limited quota on the basis of seniority as well as departmental examination. The applicant could have utilized that benefit if he thought himself suitable for the said post as per his qualification and ability. He cannot, after twenty years make a grievance that a person junior to him as Viewer had been given better opportunity. In fact, the SIU has reported that in all 46 posts of Viewers (Viewer A-1, Viewer B-6, Viewer C-34 and Viewer D-5 were declared as surplus. Some of the Viewers grade 'A' & 'B' had been adjusted on the post of Viewer grade 'C' and they had also been posted somewhere in Ranchi/Chanda/Ambajhari/Itarsi subject to the availability of sanctioned strength at those station. On merits, therefore, also the applicant has no case. It appears from the service record given by the applicant, he must have superannuated from the post of Peon in the department of Company Affairs. On that

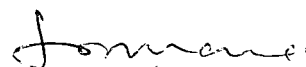
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ground also the applicant cannot claim any benefit after his retirement from service and the application will still more be barred by delay and laches.

9. In view of the facts stated above, the application therefore is dismissed. No costs.



(B. K. SINGH)
Member(A)



(J. P. SHARMA)
Member(J)

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