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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O. A. NO. 2080/90

New Delhi this the 11th day of October, 1994

CORAM :

THE HON'BLE MR. JUSTICE S. C. MATHUR, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

D. N. Vig S/O Shri N. C. Vig,
Engineer Officer (Disciplinary) I,
Vigilance Unit, C.P.W.D.,
Nirman Bhawan, New Delhi
R/O 539-A, Sector-III,
R.K.Puram, New Delhi-22. ... Applicant

By Advocate Shri K. N. R. Pillai

Versus

Union of India through
Secretary, Ministry of
Urban Development,
Nirman Bhawan,
New Delhi. ... Respondent

None for the Respondent

O R D E R (CRAL)

Mr. Justice S. C. Mathur, Chairman —

The applicant is aggrieved by the rejection of his claim for promotion to the post of Executive Engineer from the post of Assistant Executive Engineer.

2. According to the applicant, his chance for promotion came in 1971 but he was not considered on the plea that he had not completed eight years' service in the cadre of Assistant Executive Engineer. The plea of the applicant is that the period of his service in the cadre of Assistant Executive Engineer was wrongly calculated and that the period spent by the applicant in the General Reserve Engineer Force (GREF) deserved to be counted towards his qualifying service. Since 1971, the applicant made several

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representations to the appropriate authorities. The authorities were replying to the applicant saying that the matter was under consideration. The last representation of the applicant came to be rejected on 7.3.1989. Against this rejection, he preferred a representation to the President on 30.1.1990. It appears that the fate of this representation was not communicated to the applicant. Thereafter, on 4.10.1990, the applicant filed the present application.

3. The first question requiring consideration is whether the application has been made within the period of limitation prescribed in the Administrative Tribunals Act, 1985. Under sub-section (1) clause (a) of Section 21, the limitation of one year is prescribed from the date on which the final order is made. Even if we take the date of final order as 7.3.1989 when the last representation of the applicant was rejected, the present application is time barred, as the period of one year expired on 7.3.1990.

4. Learned counsel for the applicant, however, submits that the present application is not barred by time as the fate of his representation/appeal dated 30.1.1990 was not communicated to him. According to him, the representation preferred by the applicant was covered by Rule 23 (iv) (b) of the C.C.S. (C.C.A.) Rules inasmuch as the respondents interpreted to his disadvantage the provisions of the Rule. On this basis he submits that the applicant was entitled to prefer appeal under Rule 25.

5. If the applicant's submission is accepted, the representation should have been filed within 45 days from 7.3.1989 as prescribed under Rule 25. The representation/appeal was filed much beyond the period of limitation prescribed under Rule 25. Accordingly, the applicant's laches cannot be explained by reference to his representation/appeal dated 30.1.1990.

6. In S. S. Rathore vs. State of M.P. - AIR 1989 (2) SC 335, it has been laid down by their lordships of the Supreme Court that the statutory limitation cannot be extended by making repeated representations to the Government. In the present case, the cause of action accrued to the applicant in the year 1971 when he was not considered for promotion, while his juniors, as alleged by the applicant, were considered for promotion. Since 1971 the applicant has been making representations. As laid down by their lordships, the applicant cannot get any benefit in limitation by making repeated representations.

7. The learned counsel for the applicant has cited, (1) AIR 1978 SC 537 - Mrs. Sandhya Rani Sarkar vs. Sudha Rani Devi, and (2) AIR 1987 SC 1353 - Collector of Land Acquisition vs. Mst. Kadiji & Ors., for submitting that the question of limitation should be liberally construed in favour of the aggrieved person, as refusing to condone delay can result in a meritorious matter being thrown out at the very threshold causing prejudice to the aggrieved person. Even by taking a liberal view, we cannot condone the

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delay which is inordinate in the present case. As already pointed out, the cause of action accrued to the applicant in the year 1971 and the present application was filed only in the year 1990.

8. In view of the above, the application is dismissed as time barred. There shall be no orders as to costs.

P. T. Thiruvengadam

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

/as/