

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 2409/90

New Delhi, dated the 25th Jan., 1995

COURT

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri H.K. Roy,
Superintendent,
Dept. of Light Houses & Lights. Ships,
Ministry of Surface Transport,
East Block No.10, Level-IV,
R.K.Puram, New Delhi-66

... Applicant

(By Advocate Shri O.P.Khokha)

Versus

Director General
Dept. of Light Houses and Light-ships
Ministry of Surface Transport,
East Block No.10, Level-IV,
R.K.Puram, New Delhi-110066

... Respondent

(By Advocate Shri C.Hari Shankar
proxy counsel for Sh. Madhav Panikar)

JUDGMENT(ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member(J))

The Applicant is aggrieved by the Memo.
dated 22.10.90 whereby his representation dated.
24.5.90 for being given ¹³ the benefits of the
Tribunal's judgment in M.L.Narula Vs. Union of India
(T-89/1985) dated 10-3-1986 for stepping up his pay
at par with his junior Shri Raj Kumar was rejected
by the respondents.

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2. The brief facts of the case are that the applicant was appointed as LDC on 25-6-1956 and was promoted to the post of Store Keeper-cum-Accountant (included in the cadre of UDCs) w.e.f. 10.10.60 in the scale of Rs 130-300 w.e.f. 16-8-1962. His grievance is that while his pay as on 16.8.1962 was fixed at Rs 135/- per month, one Shri Raj Kumar who was appointed as LDC and later promoted to the post of UDC w.e.f. 16.8.1962 had his pay fixed at Rs 155/-, the difference in the fixation of the pay was due to allowing personal pay of Rs 20/- for attending to duties in Receipt and issue Branch. Applicant submits that his junior Sh.Raj Kumar belongs to the same cadre of LDC prior to the promotion and he was promoted to the identical cadre of UDC/Stores-cum-accountant on different dates. The claim of the applicant is that the post of Store-keeper cum-accountant and the post of UDC are in the common cadre and accordingly respondents have maintained the common seniority lists; as given in Ann.A. 1 to/A-3 of the rejoinder for the years 1967, 1977 and 1981.

3. The applicant relies on the judgment of this Tribunal in Narula v/s UOI (decided on 10-3-1986). His main contention is that the relief granted to Sh.Narula in that case in stepping up of his pay to that of his junior Shri Raj Kumar should also be made applicable to him.

4. In the reply, a preliminary objection has been taken by the respondents, regarding limitation. The applicant submits that since the respondents rejected his representation dated 24.5.90 vide Memo.dated 22.10.90

13

there has been no delay in filing this application.

5. The Respondents have not agreed to the stepping up of the pay (1) on the ground that the judgment in Narula's case is a judgment in personam and cannot be relied upon by the applicant and (2) that the applicant has filed a belated application on a stale-claim which ought to be rejected under Sections 20/21 of the Administrative Tribunals Act, 1985.

6. Shri Khokha has relied on the judgment of this Tribunal in Devi Prasad Vs UOI & Ors. (896/92)-66 Swamy C.L. Digest 1993 page 93 (Copy of the judgment is placed on the record). His contention is that the decision of the Narula's case squarely applies to this case, because the post of store-keeper-cum-accountant and UDC are interchangeable with a common seniority list. He has also relied on office order dated 6-2-1976, in which the applicant who was accountant-cum-store keeper at Calcutta was transferred as UDC to the office of DLL, Jamnagar w.e.f. 16.2.1976 (FN). His submission is that there has been no delay on his part because the rejection of his requests for stepping up of his pay in accordance with the judgment of Narula's case was done only on 22.10.1990.

7. On the other hand, Shri Hari Shankar

learned counsel for the respondents states that this is a stale claim which the applicant has made as an after thought. No representation whatsoever had been made by the applicant from 1962 till his representation dated 24.5.90. He relies on the judgment of the Supreme Court in Bhoop Singh V/s UOI & Ors (1992 (2) ATJ 153) and the decision of this Tribunal in Y.R.Bawedakar v/s UOI & Ors (OA 312/92).

8. I have carefully considered the contentions of the learned counsel for both the parties, the records in the case as well as the cases referred to above.

9. It is evident from the facts given above that the cause of action has arisen as early as 1962, when admittedly the applicant's junior, Shri Raj Kumar, was promoted as UDC and his pay was fixed at higher stage of Rs 155, with regard to his own pay which was at 135 PM. He did not make any representation against this fixation of pay at that time in 1962. The decision in Narulas' case was rendered on 10-3-1986. Even after this date the applicant did not make any representation till i.e. 24.5.90 till after four years and then filed this application on 19.11.90. Therefore the applicant has not at all been vigilant about his rights and has filed this OA very belatedly after more than 28 years. Having regard to the provisions of sections 20 and 21

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of the Administrative Tribunals Act, 1985,
the cause of action in this case having
arisen a quarter of a century beyond the
period of 3 years of the setting up of this
Tribunal it is barred by limitation and
jurisdiction. The observations of the Hon'ble
Supreme Court in Bhoop Singh case (Supra) is
also relevant to the facts in this case. The
applicant cannot rely upon Narula's case
to re-agitate this stale claim against which he
had not even cared to make a representation
immediately after 1962 when the cause of action
arose.

10. In the result, this OA is dismissed
as being hopelessly time barred. No order as to
costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

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