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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 777/90

DECIDED ON : 21.04.1993

AISHI LAL SHARMA

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APPLICANT

VS.

UNION OF INDIA & ORS.

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RESPONDENTS

CORAM :

THE HON'BLE MR. I. K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri Gyan Prakash, counsel for the Applicant

J U D G M E N T (ORAL)

Hon'ble Shri I. K. Rasgotra, Member (A) -

The case of the petitioner is that he had rendered service as Havaladar Clerk in the Armoured Corps Army Headquarters from 12.11.1941 to 30.10.1945 in the first spell and again from 15.3.1950 to 24.10.1958 as Civilian School Master/Education Havaladar in the Army Education Corps. He was discharged from the Army service on 25.1.1958. He joined on the same date as LDC in the Planning Commission and in continuation of that service was later appointed in the end of April, 1958 in the Ministry of Finance. He retired from service as officiating Assistant on 31.10.1982. In this application filed under section 19 of the Administrative Tribunals Act, 1985, the petitioner's principal prayer is that the Army service rendered in the two spells mentioned above should be counted for his seniority and all other consequential benefits. The learned counsel for the petitioner

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furhter submitted that he made a representation for counting of service on 15.7.1989 to the concerned department but the said representation was rejected vide letter dated 17.1.1990. The question on the threshold which arises for our consideration is whether the application is maintainable at all in view of the provisions made in Section 21 of the Administrative Tribunals Act, 1985. The cause of action at best could be said to have arisen when the petitioner retired from service in October, 1982. He did not choose to agitate the matter till 1989 when he filed a representation with the respondents. Thereafter, he filed this C.A. on 25.4.1990. It appears to us that the matter has been agitated at a very late stage and it has become stale and suffers from laches. The learned counsel for the petitioner, however, placed his reliance to get over the limitation on the decision of the Hon'ble Supreme Court in the case of D. P. Sharma & Ors. vs. Union of India & Anr. decided on 21.2.1989. A perusal of the above cited judgment, however, shows that the facts of this case are distinguishable inasmuch as in para 2 of the judgment in D. P. Sharma (supra) case it has been observed by their Lordships that the appellants were originally recruited as Civilian School Masters or LDCs, Leading Hand (Technical), etc. either in the lower defence installations comprising ordnance factories, ordnance depots, workshops, regimental centres, units, command headquarters, etc. under the control of Army Headquarters, New Delhi. Some of

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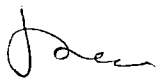
these appellants were declared as surplus in those establishments and they came to be posted/transferred to the Armed Forces Headquarters and Inter Services Organisations as LDCs. Their posting/transfer was done in public interest.

2. In view of the above facts, the ratio of D. P. Sharma (supra) case will not help the petitioner. The learned counsel for the petitioner then referred us to a judgment of the Tribunal in the case of P. K. Datta Choudhary vs. Union of India & Ors. : 1991 (1) ATJ 577. In this case several applications were decided. We, however, find on a perusal of the said judgment that the petitioners therein had not slept over their cases as ~~has~~ happened in the present case. They had filed their petitions to seek redress of their grievance either before their retirement or immediately after the retirement. In the present case the petitioner retired in October, 1982 while he filed this petition only in 1990. We also are of the opinion that the judgments of the court do not provide the cause of action. The petitioner should have agitated the matter from the date when the cause of action arose and within the ^{time} prescribed under the law of limitation. He cannot agitate the matter at a highly belated stage.



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3. In the above facts and circumstances of the case, we are not inclined to interfere in the matter. The O.A. is accordingly dismissed as barred by time. No costs.



(J. P. Sharma)
Member (J)



(I. K. Rasgotra)
Member (A)

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