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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. NO. 1622 of 1991

New Delhi this the 16th day of October, 1995.

HON'BLE SHRI N. V. KRISHNAN, ACTING CHAIRMAN
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Shri Raghubar Dayal S/D
Late Shri Kartar Singh,
R/O A-1-1, Police Colony,
Andrews Ganj, New Delhi. ... Applicant

(By Shri B. S. Charya, Advocate)

-Versus-

1. The Commissioner of Police,
Delhi Police, Police Hqrs.,
M.S.O. Building, I.P.Estate,
New Delhi-2.
2. Union of India,
Ministry of Home Affairs,
Government of India,
New Delhi (through its
Secretary). ... Respondents

(By Shri B.S. Oberoi for Shri Anoop Bagai, Adv.)

ORDER (ORAL)

Shri N. V. Krishnan :-

The applicant is aggrieved by the fact that his seniority has not been properly determined in the rank of Head Constable. It is his contention that in view of the fact that certain commendations received by him and the penalty of censure was anulled, he was entitled to more marks than were actually given to him and if these additional marks are given, he should have been included in the list 'D' which is relevant for selection of Head Constables as ASI as early as August, 1967.

2. By the annexure P-1 letter dated 11.12.1985 the Deputy Commissioner of Police, Special Branch was informed that the petition of the applicant for

promotion and confirmation had been rejected. Apparently, against this decision the applicant submitted a representation on 22.1.1986 which has been rejected by the Annexure P-2 letter dated 29.8.1990. In the circumstances he has prayed for quashing of these two impugned orders and for a declaration that he is entitled to confirmation as a consequence after the order of censure was quashed on 10.8.1970. He seeks a further direction that he should be deemed to have been promoted as Assistant Sub Inspector in 1963.

3. The respondents have filed a reply in which it is stated that the O.A. is barred by limitation. The list 'D' was prepared in July/August, 1967. The applicant scored only 88 marks while the required marks were $89\frac{1}{2}$. The applicant preferred a representation. He represented stating that he had been given a merit certificate regarding regarding the Police unrest. The respondents state that the certificate was granted to the applicant after the list was prepared and, hence, it did not entitle him to any marks. Likewise, the applicant's request that he is entitled to more marks because of the anulment of the penalty of censure was also not found to be correct as the censure was awarded in 1958. He made a representation only in 1968 which was allowed in 1970.

4. The applicant was promoted as ASI on 16.4.1970. He represented his case for seniority to the Lt. Governor which was rejected on 3.12.1976. It is subsequently that another identical representation was rejected on 29.8.1990 by the Annexure P-2 order.

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5. It is contended that the real grievance of the applicant is against the order of the Lt. Governor dated 3.12.1976 and hence is barred by limitation.

6. On the contrary, Shri B. S. Charya, learned counsel for the applicant, submits that his cause of action arose when he received the Annexure P-2 order dated 29.8.1990 which disposed of his representation dated 22.1.1986.

7. We have carefully considered the matter. The Lt. Governor's order is as early as 3.12.1976. In regard to that, the applicant probably made a representation to the Commissioner of Police some time in August, 1985 which was rejected by the Annexure P-1 order dated 23.12.1985. It is against this that he filed a representation again to the Lt. Governor on 22.1.1986 which was rejected by the Annexure P-2 order dated 29.8.1990.

8. When the Lt. Governor had rejected the representation on 3.12.1976, there was no scope for making any further representation. The applicant ought to have resorted to legal remedies available to him thereafter. Making a representation to the Commissioner about nine years later is an attempt to revive a totally stale and dead issue. No doubt, the applicant had received two replies on 11.12.1985 (Annexure P-1) and 29.8.1990 (Annexure P-2). These, however, in our view, will not revive an issue which is dead since long. We are of the view that a stale matter cannot be revived in this manner merely to ensure that on paper a cause of action can be shown to have accrued. The real grievance arose in 1976

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due to which this application is not only barred by limitation but is beyond the jurisdiction in terms of Section 21 of the Administrative Tribunals Act, 1985. Accordingly, it is dismissed. There shall be no order as to costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

N. V. Krishnan
(N. V. Krishnan)
Acting Chairman

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