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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1955/91

DATE OF DECISION 4.10.1991

SHRI J.K.GUPTA

-- APPLICANT

VS

UNION OF INDIA

-- RESPONDENT

CORAM

HON'BLE SHRI I.K.RASGOTRA, MEMBER (A)

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

SHRI T.C.AGARWAL, COUNSEL

FOR THE RESPONDENT

NONE

1. Whether Reporters of local papers may be
allwed to see the Judgement?

2. To be referred to the Reporter or not?

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J))

The applicant, Sr.Draftsman, T.E.C., filed this application under Sec.19 of the Administrative Tribunals Act, 1985 claiming his promotion as Sr.Draftsman w.e.f. 4-1-1989 when the vacancy had occurred due to the promotion of Shri K.L.Kohli as Chief Draftsman posted to Drawing (Main Section).

2. The applicant prayed for a direction to the respondents to consider applicant for promotion as Sr.Draftsman w.e.f. 4-1-1989 and in the event of his being found fit to promote him from that date with all consequential benefits.
3. The grievance of the applicant in the D.A. is that since a vacancy had arisen on 4-1-1989, the respondents should have held D.P.C. in time and the applicant should not have been made to suffer and wait for the said promotion. Instead of holding D.P.C. annually the D.P.C. was held in the year 1991 and the applicant was promoted as Sr.Draftsman w.e.f. 5-8-1991 on the recommendation of the D.P.C. (Annexure A-6). In fact the applicant wants that his promotion be antedated to 4-1-1989.
4. The learned counsel for the applicant submitted that non-consideration for promotion is infringement of the fundamental right of the applicant and referred to certain authorities. However, in the present case merely because the D.P.C. was not held in time the applicant

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cannot make out a case of his promotion from the date that vacancy had occurred, as in any case panels are drawn for each year separately. Moreover, the present application is grossly barred by limitation.

5. According to the applicant, Shri Kohli was promoted by an order dated 4.1.1989 (Annexure A-4) and the applicant made a representation on 7.8.1989 (Annexure A-2). He, however, did not approach the Tribunal for redressal of his grievances within one and half year thereafter. The present application has been filed on 23.8.1989, i.e., about two years after the representation was made by the applicant. The applicant has not disclosed any reason for delay in filing this application.

6. However, we find from the record that the applicant made another representation on 8.1.1990 in which he did not make any claim for promotion from 4.1.1989, but prayed that he may be promoted as early as possible. The applicant has alleged for the first time before the Tribunal that he should be given promotion from 4.1.1989 and not from 5.8.1991 which he has been awarded vide Annexure A-6.

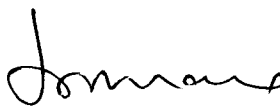
7. The learned counsel for the applicant has also argued that if the D.P.C. was not held at regular interval,

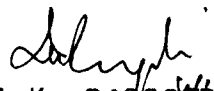
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the applicant should not suffer because of the laches of the Government and in this relied on Mahadev Kalekar & Ors. V. State Bank of Hyderabad 1990 (3) SC 15: State of Maharashtra Vs. Jagannath Achut Karandikar (1989) 10 ATC 593 SC.

8. The Hon'ble Supreme Court has clearly laid down that repeated representations would not entitle limitation and the applicant has to come for redressing his grievances as laid down under Sec. 21 of the Administrative Tribunals Act, 1985. The principles laid down in the Indian Limitation Act, 1963 do not apply to the Tribunal. See Dr. S. S. RATHORE VS. STATE OF MAHARASHTRA AIR 1990 SC P. 10.

9. In view of the above discussion the application is barred by time and is dismissed at the admission stage itself leaving the parties to bear their own costs.


(J.P. SHARMA)
MEMBER (J)


(I.K. RASGOTRA)
MEMBER (A)