

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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C.A./T.A. No. 2876/91 /19

Decided on: 4.2.97

M.K.Kain

(By Shri K.P. Dohare

..... APPLICANT(S)
Advocate)

VERSUS

NCT of Delhi

(By Shri None

..... RESPONDENTS
Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SM~~/SM ~~DR.~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

S.R. Adige
(S.R. ADIGE)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

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O.A. No. 2876 of 1991

New Delhi, dated this the 4th ¹² February, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Mahendra Kumar Kain,
U.D.C.,
G.T.B. Hospital,
R/o D-4, Type-II, HMD Colony,
Shahdara,
Delhi-110095.

.... APPLICANT

(By Advocate: Shri K.P.Dohare)

VERSUS

1. Delhi Administration
through the Chief Secretary,
Delhi Administration,
Delhi-110054.

2. The Secretary (Services),
Delhi Administration,
Delhi-110054.

(None appeared)

3. Sh. Bhullar Singh
4. Sh. Rattan Lal
5. Sh. Gopal Singh
6. Sh. Phool Singh
7. Sh. Umyao Singh
8. Sh. Sukhbir Singh

As per orders
in NA 124/97 in
OA 2876/91
dttd 23.7.97
Cur
25/7/97

..... RESPONDENTS

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant seeks promotion in DASS Gr.III, DASS Gr.II and DASS Gr.I alongwith all consequential benefits from the date his immediate junior Shri Bhullar Singh was promoted to DASS Gr.III, and assignment of seniority immediate above Shri Bhullar Singh at Sl. No.3290.

2. Applicant contends that he was appointed as L.D.C (DASS Gr.IV) on 22.2.68. He admits (Para 4.9 of amended OA) that Bhullar Singh and others were promoted to UDC (DASS Gr.III) in 1975 because they passed the typing test prior to 1975, and he was not promoted as he could not pass the typing

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test. His contention is that eventually because of the medical report certifying the deformity in one of his right hand fingers, he was given exemption from passing the typing test on 17.11.78 and was promoted as U.D.C. (DASS Gr.²~~III~~) on 16.4.79. He contends that as passing the typing test was not an essential condition for promotion to DASS Gr.III as per Recruitment Rules, and the only essential condition was three years service in DASS Gr.IV which he completed on 2.2.71 he became eligible for promotion and he should have been promoted immediately thereafter, or atleast when vacancies became available and his juniors Bhullar Singh and others were promoted in 1975.

3. The applicant cannot claim to be unaware that Bhullar Singh and others were promoted in 1975. His cause of action therefore arose in 1975 but there are no materials, and not even an averment that he sought to enforce his rights when his cause of action arose. Applicant contends that the seniority list in which he seeks placement above Bhullar Singh was issued in 1990 and this OA which was filed in 1991 is within the period of limitation of that seniority list, but it is clear that the applicant's cause of action actually arose in 1975. If as he now claims, passing of typing test was not an

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essential qualification for promotion to DASS Gr.III (UDC) he has not explained why he appeared in the typing test in 1975, in which admittedly he failed, ^{and why he did not raise the issue at that time.}

4. Those who seek enforcement of their rights must be vigilant and ~~approach~~ ^{approach in} the appropriate forums well in time. In Rattan Chand Samanta Vs. U.O.I. & Ors. 1994 (26) ATC 228 the Hon'ble Supreme Court has held that those who approach the appropriate legal forums with delay are liable to lose their remedy and when the remedy is lost, the right is lost.

5. Apart from the O.A. being grossly time barred, we must also observe that as the cause of action relates to 1975, it lies outside the jurisdiction of the Tribunal under Section 21 (2)(a) A.T. Act, as it relates to a period much before 3 years prior to the inception of the Tribunal on 1.11.85.

6. Under the circumstance, without going into the merits of this case, the O.A. is dismissed on grounds of limitation and lack of jurisdiction. No costs.

A. Veda Vali

(DR. A. VEDAVALI)
Member (J)

/GR/

S. R. Adige

(S.R. ADIGE)
Member (A)