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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

O.A. NO.345/1991

13.02.1992

SHRI MADAN LAL TANEJA

...APPLICANT

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

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

FOR THE APPLICANT

...SHRI P.L.MIMROTH

FOR THE RESPONDENTS

...SHRI ROMESH
GAUTAM

1. Whether Reporters of local papers
may be allowed to see the judgement? *
2. To be referred to the Reporter or not? *

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

The applicant in this case retired as Senior Travelling Inspector of Accounts on 31.7.1990 from Northern Railway, New Delhi and assailed the grievance of getting lesser pay at the time of his retirement from his junior. Shri P.R. Gupta and a comparative chart in this regard has been given in para 4(viii). The applicant has claimed the relief that his pay be stepped up as according to established norms of service that a senior should not get lesser pay than the junior and prayed that the anomaly be rectified and the pay of the applicant be stepped up from the date of occurrence of difference equal to the pay of

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Shri P.R. Gupta. It is further desired by the applicant that the respondents be directed to recalculate his retirement and pensionary benefits on the basis of enhanced emoluments as per revised pay on account of stepping up. As a consequence it is also prayed that the arrears of pay at the rate of 12% interest be also awarded to the applicant.

The very facts stated in the application are that the applicant was appointed as Clerk Grade-II on 5.4.1956 while his junior Shri P.R. Gupta was appointed in the same capacity in November, 1959. The applicant passed the Apprentice Second A Examination in November, 1958, while Shri P.R. Gupta passed the same examination in 1960. The applicant was promoted to Clerk Grade/II w.e.f. 13.7.1962, while Shri P.R. Gupta was promoted to the same post in October, 1962. Apprentice Third A Examination was passed by both of them in November, 1972. However, the applicant was promoted as Travelling Inspector in July, 1979 in the pay scale of Rs.500-900, while Shri Gupta in 1979 in the same pay scale. The grievance of the applicant starts in November, 1989 when the applicant was drawing the basic pay

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in the revised pay scale at the stage of Rs.2525 and Shri Gupta was drawing Rs.2600 on that date. Before his retirement, while in active service, the applicant has made a representation (Annexure A1 at p-9 of the application) drawing the attention of the respondents to this effect. However, the respondents failed to redress the grievance, hence the present application has been filed by the applicant on 4.2.1991.

The respondents contested this application taking the preliminary objection of limitation urging in the counter that the applicant had already made a representation to the same effect in 1983 (Annexures R1 and R2 to the counter). In the representation made in May, 1983, the applicant has also referred to another representation of earlier date of November, 1980. Thus it is quite a stale matter and cannot be now^{be} pursued by the applicant in view of the established law and the application is hit by limitation as provided under Section 21 of the Administrative Tribunals Act, 1985. The respondents also contested this application on merits. It is stated that the applicant was borne on the cadre of General Branch of CGI in the pay scale of Rs.330-560, while Shri P.R. Gupta, who has been alleged to be junior by the

applicant, belongs to TA Branch cadre of CGI. Since both of them did not belong to the same cadre in the lower post, so the applicant cannot claim equality of pay in that regard and the matter is not covered by the Railway Board's circular of December, 1982 and January, 1983. The applicant opted for revised scale of pay w.e.f. July, 1973. Shri. P.R. Gupta, however, opted for the revised pay scale from January, 1973. On the basis of their respective options, opted for fixation of pay, the applicant as well as Shri P.R. Gupta continued to draw the same pay scale and on the promotional post, their pay was fixed according to the pay admissible to the promotional post.

I have considered the matter at a greater detail. Firstly, the application is vague in as much as the applicant has not averred in the application as to at which point of time, he wants his pay to be stepped up equal to that of his junior, Shri P.R. Gupta. Vague pleadings cannot help the applicant. Secondly, the limitation is an important point to be taken into consideration. The respondents have clearly stated in their counter that the applicant has preferred repeated representation in 1983 and

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he was also replied in June, 1983 vide Memo of even date (Annexure R3 to the counter) that the case of Shri Taneja (applicant) has been examined and it has been found that Shri Taneja had opted for revised scale w.e.f. 14.7.1973 whereas Shri Gupta opted for revised scale from 1.1.1973. It is due to that Shri Gupta got special pay of Rs. 28. Shri Gupta's pay was fixed at the stage of Rs.620 w.e.f. 29.11.1979 and Shri Taneja's pay was fixed at the stage of Rs.600 w.e.f. 6.7.1979. The stepping up of pay is not due in this case. When the applicantt was well aware and the cause of action had arisen in his favour, he was very much well within his right to take his case to the Court of Law. In fact, if the case of the applicant is perused in right perspective, it will amount to going back to the period much earlier to three yearas from the date of enforcement of the act, which is not permissible under Section 21 of the Administrative Tribunals Act, 1985.

There is no application for condonation of delay also, so what prevented the applicant to take the case to the Court of Law at the relevant period of time, is not clear.

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The learned counsel for the applicant has referred to a circular issued by the Railway Board on 13.7.1989, which has been filed as Annexure R1 to the rejoinder. This circular too does not help the applicant at all. Even giving full benefits of this circular to the applicant, this application has been filed in February, 1991 and that cannot be said to be within time as per limitation laid down under Section 21 of the Administrative Tribunals Act, 1985. In the case of S.S. Rathore Vs. State of Madhya Pradesh, AIR 1990 p-10 and in view of the recent decision of the Hon'ble Supreme Court in the case of State of Punjab Vs. Gurdev Singh, 1991(3) Judgement Today p- . The limitation has to be seen in the service matters also and if a person with regard to his service grievance is left over the same for a continued period, then he has to suffer for his own fault.

The learned counsel for the applicant has referred to the Railway Service (Revised Pay) Rules and the Railway Board's letter dt. 30.7.1983, which have been annexed to the application as Annexures A3 and A4. However, the reliance has been misplaced by the learned counsel as it relates to the removal of anomalies arising

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as a result of application of provisions for option for fixation of pay on promotion. This is not the case of the applicant.

The grievance of the applicant as is evident from the reply given to the representation of the applicant of May, 1983 in June, 1983 (Annexure R3) arises from the date of fixation of pay and the provisions of FR 22(c) are not attracted at all.

Taking all these facts into account, I am of the opinion that the present application is hopelessly barred by time and the applicant is not entitled to the reliefs claimed. The application is, therefore, dismissed as devoid of merits leaving the parties to bear their own costs.

J.P. Sharma

(J.P. SHARMA)

MEMBER (J)

13.02.1992

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