

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

W.O.A. No. 1362/92
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(Q)

DATE OF DECISION 17.09.97

Jai Chand

Applicant(s)

Versus

Commissioner of Police & Anr. Respondent(s)

(For Instructions)

1. Whether it be referred to the Reporter or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No


(Dr. A. Vedavalli)
Member(J)
17.09.97.

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1362/92

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New Delhi this the 17th day of September, 1997.

Hon'ble Mr. N. Sahu, Member (A)
Hon'ble Dr. A. Vedavalli, Member (J)

Jai Chand, S.I., No.D/339,
S/o Shri G.R. Wadhwa,
R/o V-695, Rishi Nagar,
Shakurbasti, Delhi.

...Applicant

(By Advocate Shri S.P. Sharma, though none appeared)

-Versus-

1. The Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.

2. The Delhi Administration,
(through its Chief Secretary),
Old Secretariat,
Delhi.

...Respondents

(By Advocate Shri Rajinder Pandita)

O R D E R

Hon'ble Dr. A. Vedavalli:-

None appeared for the applicant on 1.8.97 when the case was heard. He was absent on 23.7.97 also. On 30.6.97, proxy counsel for applicant's counsel sought an adjournment. As this is a 1992 matter and it cannot be adjourned further, the case is being disposed of after hearing the learned counsel for the respondents Shri Rajinder Pandita and on the basis of the pleadings and material available on record.

2. The facts of this case, which have not been specifically, denied by the respondents, shortly stated, are as under.

3. Applicant, Jai Chand was enrolled in the Delhi Police as a Constable on 27.12.47. After completion of his training he was promoted to the rank of Head Constable w.e.f.

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1.11.53. He was confirmed in that rank w.e.f. 30.9.59. Thereafter he was promoted to the rank of Assistant Sub Inspector from 1.4.63 and was confirmed w.e.f. 10.9.69. He was further promoted as Sub Inspector w.e.f. 27.4.70 and was confirmed in the said post w.e.f. 22.5.74. He has retired from service on 31.12.84. The present O.A. was filed by the applicant on 20.05.92.

4. The applicant in his O.A. has not impugned any particular order. He seeks only the extension of the benefit of a judgement of this Tribunal dated 6.9.91 in OA-1095/87 - Kedar Nath vs. Union of India (Principal Bench, New Delhi). The grievance of the applicant, briefly stated, is that due to the delay in his confirmation as Head Constable, Assistant Sub Inspector and Inspector, his juniors were promoted earlier and have superseded him and as a consequence he was denied his due promotion according to his seniority in time. He submits that the said action of the respondents is violative of the relevant provisions of the Punjab Police Rules, 1954, as applicable to the Delhi Police. The applicant contends that he should have been automatically confirmed as Head Constable after completion of his two years of service in that rank as per Rule 13.18 of the aforesaid rules. It was further contended by him in this O.A. that the delay in his confirmation as Assistant Sub Inspector and Sub Inspector is bad in law.

5. Applicant seeks the following reliefs:-

"a) Direction may kindly be issued to the respondent to confirm the applicant as Head Constable w.e.f. 1.11.1953 and his confirmation as Asstt. Sub-Inspector and promotion to the rank of Inspector, ACP,



DCP etc. in order of his seniority be given strictly from the date his next junior was promoted.

(12)

b) The applicant may also be awarded his pay, allowances and other infringed benefits including revision of pension etc. to the rank he is supposed to have gained otherwise. All monetary benefits be given after considering applicant as confirmed with effect from 1.11.1955 as H.C."

6. Applicant has not filed any application for condonation of delay in filing this O.A. He has filed a copy of his representation dated 16.9.91 submitted to the respondents (Annexure 'D'), i.e., after the judgement of this Tribunal in Kedar Nath's case (supra).

7. The O.A. has been contested by the respondents who have filed their counter-affidavit in reply. The applicant has filed his rejoinder to the counter-affidavit broadly denying the various averments and grounds taken by the respondents in their counter-affidavit and has reiterated generally the grounds raised in this O.A.

8. The respondents have raised a preliminary objection as to the maintainability of this O.A. It was submitted by them that the applicant is claiming seniority, confirmation, promotion etc. and the monetary benefits as relief which date back to several decades. While so, the present O.A. has been filed only in 1992, i.e., after the cause of action, if any, in favour of the applicant has accrued to him several decades ago. They contended that in the circumstances the O.A. is barred by limitation and hence is not maintainable and is liable to be dismissed on this preliminary objection alone.



9. During the course of his arguments learned counsel for the respondents Shri Rajinder Pandita brought to our attention a recent judgement of this Tribunal dated 21.7.97 in OA-561/92 - Mittar Sain vs. The Commissioner of Police and other connected matters by a Bench consisting of Hon'ble K. Muthukumar, and one of us (Hon'ble Dr. A. Vedavalli). He submitted that the present O.A. is fully covered by the said judgement and can be disposed of in the light of the same. A copy of the said judgement made available for our perusal by the learned counsel for the respondents has been placed on record.

(3)

10. It is noticed from the aforesaid judgement dated 21.7.97 in Mittar Sain and other connected matters that seven OAs filed in 1997 involving similar questions of fact and law were disposed of by this Tribunal by a common order. Those OAs were also filed by the applicants therein who were initially recruited as Constables in the Delhi Police several decades back and have retired from service many years ago. The questions of fact and law raised, the prayers and the reliefs sought by the applicants therein and the applicant in the present OA Jai Chand, are similar. It is noticed that the preliminary objections raised by the respondents in those seven OAs and the present OA are the same.

11. After a detailed discussion and consideration it was held by the Tribunal in the aforesaid judgement in Mittar Sain and other connected matters (supra) thus:-

"31. On an examination of the fact situation in the present cases as already noted and the aforesaid legal position we are inclined to agree with the arguments put forth by the learned counsel for the respondents that all the present



OAs are squarely hit by the bar of limitation under Section 21 of the Administrative Tribunals Act, 1985. Moreover, this Tribunal is precluded from taking cognizance of any grievance which arose prior to 1.11.82, i.e., three years before the establishment of the Administrative Tribunals Act, 1985, as laid down in V.K. Mehra vs. Secretary, Ministry of Information and Broadcasting, New Delhi (ATR 1986 (1) CAT PB 203). The present OAs, therefore, are not maintainable also since we do not have any jurisdiction to entertain such applications wherein the grievances of the applicants, according to their own admission, have arisen decades prior to the relevant date, i.e., 1.11.82.

32. In view of the foregoing discussion we are of the considered opinion that the present OAs are barred by inordinate delay, laches and limitation under Section 21 of the Administrative Tribunals Act, 1985 as well as by non-maintainability on the ground of jurisdiction as already noticed.

33. In view of the above, it is not necessary for us to deal with the merits of these OAs. All the seven OAs are, therefore, dismissed on the ground of limitation and non-maintainability due to lack of jurisdiction. No costs."

12. On an examination of the fact situation in the present O.A. & in the light of the well settled legal position as discussed in detail in the aforesaid judgement of this Tribunal in Mittar Sain's case (supra), which is fully applicable to the present OA, we are of the opinion that the present O.A. is clearly hit by inordinate delay, laches and the bar of limitation under the provisions of Section 21 of the Administrative Tribunals Act, 1985, as well as by non-maintainability on the ground of jurisdiction under the said provisions since the cause of action and the grievance of the applicant have arisen several decades prior to the relevant date of establishment of this Tribunal, i.e., 1.11.82. As already noticed earlier, the applicant has not even bothered to file an application for condonation of delay in filing this O.A. 

13. In view of the facts and circumstances of this case and the foregoing discussion, it is not necessary for us to deal with the merits of this case. The O.A. is, therefore, dismissed on the ground of limitation and non-maintainability due to lack of jurisdiction. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

N. Sahu
(N. Sahu)
Member (A)

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