

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(1)

O.A.No.2144/92

Date of Decision: 20.08.1992.

SHRI JHAMMAN SINGH

....

APPLICANT

VERSUS

UNION OF INDIA & ORS.

....

RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

COUNSEL FOR THE APPLICANT : SH. R.R. ARVIND

1. Whether local reporters may be allowed to see the Judgement? ✕
2. To be referred to the reporter or not? ✕

JUDGEMENT(ORAL)

(delivered by Hon'ble Mr. P.C. Jain, Member(A)).

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is working as Assistant Director (Horticulture) in the Central Public Works Department, Ministry of Urban Development, New Delhi, has assailed the order dated 12.02.1987 by which seniority list was issued; order dated 28.4.1987 by which his representation with respect to the aforesaid seniority list was rejected; and memorandum dated 4.8.1992 by which reply to his legal notice dated 2.7.1992 has been given. He has prayed for the following relief:-

(i) that his continuous ad hoc service as Assistant, Director (Hort) may be counted for his promotion and seniority;

(ii) that the seniority list of Asstt. Director (Hort)
C.L.

issued by D.G., C.P.W.D., Nirman Bhawan, New Delhi may be rectified and the position may be shown correctly therein;

(iii) that Sh. V.K. Walia who was promoted one year after the ad hoc promotion as Asstt. Director (Hort), should be placed junior to the applicant, in the seniority list after correction,

(iv) that after placing the applicant at proper place in the seniority list, his name may be included in the Zone of consideration to the post of Deputy Director (Hort) as the meeting of the D.P.C. to make selection two posts of Dy. Director is going to be held in the U.P.S.C. very soon.

2. We have heard the learned counsel for the applicant on admission and limitation.

3. As it seems from the reliefs prayed for by the applicant, he has inter-alia claimed that one Sh. V.K. Walia be made junior to him in the seniority list already issued. Sh. Walia has not been made a party to the O.A. and accordingly the O.A. is bad for non-joinder of parties. Further, the cause of action accrued to the applicant in February, 1987 when the impugned seniority list was issued and he was dissatisfied with his position in that seniority list. He made representation which was rejected on 28.4.1987. Therefore, in accordance with the provision of Section 21(1) of the Administrative Tribunals Act, 1985, the applicant should have approached the Tribunal within one year from 28.4.1987. As he has failed to do that, this O.A., at this stage, is hopelessly time-barred - (S.S. Rathore Vs. State of M.P. A.I.R. 1990 S.C. 10). The contention of the learned counsel for the applicant is that the limitation in this case should be counted from 4.8.1992 when reply to his notice under Section 80 of the Code of Civil

Procedure was given. We are unable to uphold this contention for two reasons. Firstly, after the Administrative Tribunals Act, 1985 came into effect, there is no necessity under law for serving a notice on the Government under Section 80 of the C.P.C. Secondly, by sending such a notice which is neither necessary nor otherwise required, limitation, as prescribed under section 21 of the Act ibid, will not be affected.

4. In view of the above, the O.A. is not maintainable being barred by limitation as well as for non-joinder of parties and the same is accordingly rejected at the admission stage itself.

(P.C. JAIN)
(P.C. JAIN)
MEMBER(A)

(T.S. OBEROI)
(T.S. OBEROI)
MEMBER(J)