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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA No.2346/92

Date of decision: 29.04.93.

Shri G.L. Raina

...Petitioner

Versus

Union of India through Secretary,
Ministry of Urban Development, New
Delhi & Others

...Respondents

Coram:- *The Hon'ble Mr. I.K. Rasgotra, Member (A)*
 The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner

Shri G.K. Aggarwal, Counsel.

For the respondents

None.

Judgement (Oral)

(*Hon'ble Mr. I.K. Rasgotra, Member (A)*)

The petitioner was working as a Assistant Engineer in the pay scale of Rs.650-1200. He had to cross the efficiency bar at the stage of Rs.810/- in that scale after passing the departmental examination. The petitioner failed to clear the departmental examination. As such, he was held up at the efficiency bar stage. In this application filed under Section 19 of the Administrative Tribunals Act, 1985 the petitioner is claiming the benefit of clearing the efficiency bar w.e.f. 1.7.1978 by a direction by the Tribunal.

2. We have heard the learned counsel for the petitioner Shri G.K. Aggarwal. The first point which arises is that of limitation under Section 21 of the Administrative Tribunals Act, 1985. The learned counsel submitted the hold up of the petitioner at the efficiency bar caused him recurring loss and, therefore, the limitation would not come in the way as the cause of

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action is of recurring nature. The second point raised by Shri Aggarwal is that the petitioner had asked for exemption from passing the departmental examination but no order was communicated by the respondents to the petitioner.

3. We observe that the petitioner retired as Executive Engineer which means he was promoted from the post of Assistant Engineer to the post of Executive Engineer before he retired from service on 30.4.92. He was not allowed to cross the efficiency bar at the stage of Rs.810/- in the pre-revised scale as he failed to pass the departmental examination. Thereafter there were some disciplinary proceedings initiated against him which led to the imposition of penalty of censure vide order dated 9.10.1986. Subsequently, w.e.f. 1.1.1986 pay scales were revised in accordance with the recommendations of the Fourth Central Pay Commission. The case of the petitioner for clearing the efficiency bar in the pre-revised scale or exemption from passing the departmental examination has to be considered in the context of the above circumstances and in accordance with the Government of India's OM dated 4.5.1987 (copy placed at page 23 of the paperbook). Clarification-6 contained in the said OM reads as under:-

"Whether in the case of a Government servant who was held up at the E.B. stage in

While fixing pay under CCS (RP) Rules, 1986 the E.B. will become



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pre-revised scale, the pay can be fixed at a stage beyond E.B. stage in the revised scale irrespective of the fact that he was not cleared to cross this stage in the old scale.

operative only with reference to such bars in the revised scale occurring after initial fixation of pay irrespective of whether a Government had crossed or not crossed or had been held up at the E.B. stage in the pre-revised scale on the analogy or Note-I below Rule 8 to CCS (RP) Rules, 1986."

4. It will be observed from the above clarification that after the enforcement of CCS (Revised Pay) Rules, 1986 that efficiency bar in the case of the petitioner could become operative only with reference to such bar which may have provided in the revised scale occurring after initial fixation of pay irrespective of whether he had crossed or not crossed or had been held up at the efficiency bar stage in the pre-revised scale.

5. In view of the above clarification the question of granting him any relief by way of exemption from clearing the efficiency bar in the pre-revised

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scale is not relevant after 1.1.1986. The O.A. is also barred by limitation under Section 21 of the Administrative Tribunals Act, 1985. It is accordingly dismissed for want of merit as well as being barred by limitation at the admission stage. No costs.

J. P. Sharma

(J.P. SHARMA)
MEMBER (J)

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I. K. Rasgotra

(I.K. RASGOTRA)
MEMBER (A)