

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(5)

HON. (DR:) A. VEDAVALLI, MEMBER (J)
HON. SHRI R.K. AHOOJA, MEMBER (A)

O.A. NO. 82/1992

NEW DELHI, THIS 17th DAY OF MARCH, 1997.

SHRI SURENDRA PRASAD
S/o Sh. Dular Chand Prasad
Junior Hindi Translator
Central Bureau of Investigation
Anti Corruption Branch
C.G.O. Complex, NEW DELHI

R/o Quarter No.1500, Sector 7
Pushp Vihar, NEW DELHI

...APPLICANT

(By Advocate Shri M.L. Chawla)

VERSUS

1. UNION OF INDIA, through
Secretary to the Govt. of India
Ministry of Home Affairs
Department of Official Languages
North Block, NEW DELHI.

2. The Director
Central Bureau of Investigation
Ministry of Home Affairs
Government of India
Block No.3, 4th Floor
CGO Complex, Lodi Road
NEW DELHI-3.

..RESPONDENTS

(By Advocate None)

ORDER

R.K. AHOOJA, MEMBER (A)

The applicant joined the Ministry of Home Affairs, Central Bureau of Investigation (CBI) as a Clerk on 23.6.1971. The CBI, Department of Personnel & Administrative Reforms (DOP&AR) held an examination on 20.2.1981 for filling up the post of Junior Hindi Translator (JHT) on deputation basis. On that basis, the applicant was appointed on deputation and posted in the office of Superintendent of Police, CBI, Delhi Branch, vide order dated 4.4.1981. He claims that he obtained first position in the order of selection/appoint-

(b)

ment. An Official Languages cadre for the Ministry of Home Affairs was formed in September 1981 when the relevant rules were also communicated vide notification dated 9.9.1981 (A-5). The applicant states that while his name should have been included in the new cadre automatically, the same was not done and instead the names of two junior colleagues, S/Shri R.D. Singh and Sahdev Choudhary who were No.2 and 3 respectively in the order of selection and appointment were included. The applicant made several representations (A-3). A lot of correspondence also ensued between the CBI and the Home Ministry, D/o Official Languages, but without any result. His superior officers have all along been recommending his name for inclusion in the cadre. He also submits that only one post of JHT in CBI was shown in the schedule attached to the cadre rules and two of his juniors have been absorbed and thus he has been discriminated. He therefore seeks a direction to the respondents to absorb him in the Official Languages cadre from the same date as his junior colleagues were absorbed with all consequential benefits of seniority, pay fixation and further promotions with arrears of pay.

2. The respondents controvert the above claims. To begin with, they allege that the application is obviously time barred. The process of initial constitution took place in 1981 and was finalised in 1983 when Shri Ramdar Singh was included. Later some persons complained that their names were left out and orders of induction of such persons were issued in 1985 when Shri Sahdev Choudhury was inducted. The applicant kept sleeping and never took up his case and filed his first representation only on 26.4.1988. Even then he filed the present O.A. on 10.1.1992. On merits, they say that there was no question of inter se seniority which is determined only on inclusion in the cadre and thus Shri Sahdev Choudhury was placed above Shri Ramdar Singh. After the publication of the service rules, officers holding posts

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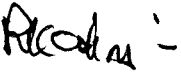
(A)


included in schedule 1 were considered and as such Shri Ram Dar Singh was included followed by Shri Sahdev Choudhury. The post held by the applicant was not initially in the cadre and was included only in 1986 at which time the applicant could not be included in the service as a regular candidate since he was holding the post of JHT only on an ad hoc basis. Hence, the applicant had no claim for inclusion.

3. We have heard the ld. counsel on both sides. Shri M.L. Chawla arguing for the applicant cited a number of judgments to show that the limitation would not apply in the present case. He submitted that in the case of ALL INDIA DESIGN DRAFTSMEN'S ASSOCIATION & ORS. VS. THE DIRECTOR & ORS. SLJ 1992(1) CAT 87, it was held that when there was an assurance given by the Government that the representations given were under active consideration, limitation would apply only from the date the representations were finally rejected. The Supreme Court had also in MADRAS PORT TRUST VS. HYAMANSHU INTERNATIONAL AIR 1979 SC 1144 had held that the plea of limitation is one which the court also looks upon with disfavour and a public authority in all morality and justice should not take up such a plea to defeat a just claim of the citizen. We are however of the view that the facts and circumstances of the present case are entirely different. It is admitted position. that the Official Languages cadre was initially constituted in 1981. The two juniors of the applicant to whom he makes a reference were also inducted in 1983 and 1985 respectively. The post which was being held by the applicant was also inducted into the schedule of the Official Languages cadre in 1986. The respondents claim that the first representation made by the applicant was only in 1988. The applicant says that he made various representations though he too makes reference to his latest representation of 1988. We are left with no other conclusion but that the applicant made the first move for asserting

his claim only in 1988. Even though his grievance arose at least in 1983 or again in 1985 when the so called juniors were inducted, it does not help his case if he claims that since the Department itself was undertaking correspondence with the Ministry to have him inducted in the Official Languages cadre and that under that assurance there was no need for a formal representation or that oral representations were being made. As has been held by the Supreme Court in S.S. RATHORE (A.I.R.1990 SC 10), cause of action shall be taken to arise on the date of the higher authority disposing of the appeal or representation and where no such order is made within six months, the cause of action would arise from the date of expiry of six months. Repeated unsuccessful representations not provided by law do not enlarge the period of limitation. In this case, not only was the applicant slack in making his representation but also in approaching the Tribunal as late as in 1992. We are therefore of the view that his case is squarely barred by limitation under rule 21 of the Administrative Tribunals Act 1985.

4. In view of the above position, it is not necessary for us to go into the merits of the case. The O.A. is accordingly dismissed on laches and delay. No costs.


(R.K. AHOOJA)
MEMBER (A)


(DR. A. VEDAVALLI)
MEMBER (J)

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