

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 14,5/93

DECIDED ON : 10.06.1993

R. S. GUPTA

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PETITIONER

VS.

DIRECTOR GENERAL (WORKS)
& NR.

...

RESPONDENTS

ORAM :

THE HON'BLE MR. I. K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri S. K. Shukla, Counsel for the Petitioner

JUDGMENT (ORAL)

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

The case of the petitioner is that he has been relegated in seniority and some of his juniors have been placed above him vide the seniority list issued under Directorate General of Works, CPWD, Nirman Bhawan, New Delhi, letter dated 26.4.1990 issued in respect of Assistant Engineers (C). The petitioner was on deputation to Tanjania from September, 1973 to October, 1977. His apprehension is that possibly due to his liaison abroad he was not considered for promotion at the proper time. It is observed in the letter dated 16.6.1992 (Annexure A-3 to the OA) that the petitioner was promoted as Assistant Engineer (C) on 26.11.1977 on ad-hoc basis. He joined that post on 3.1.1978. This promotion was purely ad-hoc and temporary. It was made clear that this will not confer

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on him any right to seniority from the date of promotion. In regard to his juniors being placed above him in the seniority list, the respondents in this letter have clarified that ad-hoc promotions were regularised in 1986 and regular yearwise panels were prepared from 1975 to 1985. The petitioner was considered for regular promotion along with other eligible officers against the vacancies of 1979. He, however, could not make the grade in the panel for the year 1979 while some of his juniors were included in the panel on the basis of their service record. It is clarified that the post of Assistant Engineer (C) is filled up on selection basis. The petitioner was again considered for 1981 vacancies but he was not recommended for inclusion in the select list. From this chronology it is apparent that when the ad-hoc promotions were considered for regularisation in 1986, the period of deputation which is related to 1973 to 1977 would not have affected his promotion prospects. Even if the confidential reports for the said period were not available, the DPC could have considered the reports for the available period as substituting the reports which he would have earned during deputation abroad. In any case, he was considered for 1981 vacancies when he would have earned at least 3 to 4 reports in India while working as Assistant Engineer, but he was again not included in the select list. Thus, the petitioner would have known the position regarding his supersession and the consequential loss

of seniority in 1986 when the ad-hoc promotions were regularised. Even if the year of 1986 is ignored for the purpose of regularisation, the document at page 9 of the paperbook which is updated seniority of Assistant Engineers (C) was issued on 26.4.1990. The petitioner should have immediately reacted if he was aggrieved and made a representation to the respondents and if he was still aggrieved, he should have come within a reasonable time to the Tribunal agitating his grievance. He made a representation only on 10.3.1992, i.e., almost after two years of issue of the said seniority list. The cause of action, in our view, arose first in 1986 and then in April, 1990.

2. In view of the above, we are of the opinion that the petition is barred by limitation under section 21 of the Administrative Tribunals Act, 1985. The same is dismissed accordingly.

Tomar
(J. P. Sharma)
Member (J)

Delhi
(I. K. Rasgotra)
Member (A)

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