

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
O.A.No. 217 of 1993

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Dated New Delhi, this 2nd day of November, 1994

Hon'ble Shri J. P. Sharma, Member(J)

Hon'ble Shri B. K. Singh, Member(A)

1. Shri Balbir Singh
R/o 432, Sector VI
R. K. Puram
NEW DELHI-22
2. Shri Jagdish Chand Satdev
R/o 23, Begumpur, Malviya Nagar
NEW DELHI-17
3. Shri Behari Lal-I
R/o 6, Savitri Nagar
NEW DELHI-17
4. Shri Mohinder Singh Rana
R/O Vill. & P.O. Bijwasan
NEW DELHI-61
5. Shri Ram Datt Sharma
R/o Vill & P.O. Sisana
Dist. Sonapat
HARYANA
6. Smt Leela Wati
R/o 96, Sec.6, R.K. Puram
NEW DELHI
7. Smt Parkashi Devi
R/o RZ-242-C, Raj Nagar
Palam Colony
NEW DELHI
8. Smt Isha Bhardwaj
R/o 1487/A, Reni Bagh
DELHI-34

... Applicants

By Advocate: Shri S. R. Dwivedi

VERSUS

Union of India, through

1. Secretary
Ministry of Communication
Department of Post
Dak Bhawan
NEW DELHI
2. The Chief Postmaster General
Delhi Postal Circle
Meghdoot Bhawan
NEW DELHI-1

... Respondents

By Advocate: Shri M. K. Gupta

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O R D E R
(Oral)

Shri J. P. Sharma, M(J)

(16)

The applicant No.1 Shri Balbir Singh has since retired from service allegedly as Sorting Assistant more than three years ago. Applicant No.2, Shri Jagdish Chand Satdev and applicant No.4, Shri Mohinder Singh Rana may be in service by virtue of age given in the title of the application. Applicant No.3 must have retired about 15 years ago from the post of Sorting Assistant. Applicant No.5 also must have retired atleast five years ago. The applicants at sl.6,7&8 are the legal representative as their husband at one point of time before their death were employed as Sorting Assistants. All these applicants have the common grievance that vide order dated 30.6.68 and 16.6.69 certain promotions were effected to L.S.G. in the Postal Department. and the benefit was not extended to them.

2. In September, 1969 there was a general strike in RMS wing of the Postal Department, where these applicants were also working in the capacity of Sorters. Applicants along with most of the other employees(non-applicants) remained unauthorisedly absent from duty during the strike period

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and the said period was treated as 'dies-non'. 19 Sorters during this period performed their duties and they were given promotions as L.S.G. irrespective of their seniority. (17)

One of the aggrieved officer, Shri Kulwant Singh filed a Civil Writ Petition No.1243/71 in the Delhi High Court which was decided on 2.8.80 whereby it was held as under:

"The impugned orders dated Sept.30,1968 & June 1969 are quashed to the extent filling one post in case the applicant is found fit for promotion under the statutory rules. The Government will consider the case of the applicant for promotion as on 30.9.68 and grant adequate relief in accordance with law."

Shri Kulwant Singh and 14 others were given notional promotion with effect from 30.9.68.

3. The applicants have prayed for the relief that they or their predecessor in interest should be given promotion to L.S.G./benefits from service with effect from 1.10.68 as has been given to officials similarly situated such as Rajender Lal Bansal & 15 others in O.A.No.1610/1991 decided on 23.7.92.

4. A notice was issued to the respondents who contested this application and they have taken the preliminary objections that the application is barred by limitation and a number of authorities have been cited in para-1 of the counter. The applicant has also filed the rejoinder.

5. We heard Shri S. R. Dwivedi, counsel for the applicants and Shri M. K. Gupta, counsel for the respondents. The learned counsel for the respondents confined his arguments to the point of limitation, which has been taken as preliminary objection in this case. The learned counsel for the applicant, however, argued that there are a number of judgements given by Principal Bench and one of them he has annexed with the OA, i.e. OA.1610/91 Rajinder Lal Bansal & 15 others Vs UOI & Another decided on 23.7.92. It is stated that the benefits given in those cases were the applicants who were junior to some applicants in the present OA, were given benefits then the applicants have got a fresh cause of action and the case is within limitation. The learned counsel for the applicant has also referred to the case of Shri Giri Raj Sharma who has been given the benefit in the year 1992, and, therefore, the cause of action is revived in July, 1992. This point has been taken

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in paragraph-4(1.4) of the OA, but this has been denied by the respondents in the counter. However, the learned counsel for the applicant referred to the fact that Shri Giri Raj Sharma was given promotion as per the directions given in the judgement in OA.1610/91 decided on 23.7.92. We have considered all these aspects.

6. If the contention of the learned counsel for the applicant is accepted, then it will repeal the law of limitation for the service matters. Those applicants who retired 15 years, 5 years or 4 years ago at the time of filing this application are also claiming the relief along with widow whose husbands at one point of time were employees and died in harness. Only two of the applicants, applicant No.2 and applicant No.4, Shri Jagdish Chand Satdev and Shri Mohinder Singh Rana respectively are in active service. The judgement of the Delhi High Court was delivered in August 1980. If the applicant wanted to get the benefit of the Judgement of the High Court, then they should have come to the Tribunal ^{at appropriate time} as other applicants who had approached the Tribunal for redressal of their grievances and got the relief. We are constrained to observe

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that limitation is one of the factor which give a right to the adversary to oppose the right for claim and in such circumstances the remedy is lost by delay and laches. We find that in the case of State of Punjab Vs Gurdev Singh reported in 1991(4) SCC p.1, the Hon'ble Supreme Court while quashing the judgement of Punjab and Haryana High Court held that limitation is one of the main criterion considred in service matters also. The matter is also considred in the case of S.S. Rathore Vs State of M.P. reported in AIR 1990 SC p.10. Recently the Hon'ble Supreme Court has also considred the matter in the case of Bhoop Singh Vs UOI reported in JT 1992(2) SC 103. In this last reported case, there has been similarity with the present case in as much as the Delhi Police constables who were in strike were allowed the relief by Delhi High Court and subsequently in some of the petition filed before the Tribunal the relief was also granted and those constables who were removed from service were ordered to be reinstated. A similarly situated constable came before the Tribunal for the same relief on the ground of judgement passed by High Court and the Tribunal in favour of the similarly situated constables and the Tribunal refused to

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grant the relief and the Hon'ble Supreme Court, on an appeal filed by the aggrieved party, Shri Bhoop Singh upheld the decision of the Tribunal highlighting the fact that if there are delay and laches and a person does not come under limitation, he cannot be granted relief. Then in another case (JT 1993(3) SC 418) Ratan Chand Samantha Vs UOI, the applicant was denied the relief of re-engagement holding that delay and laches itself deprives a person of his remedy available in law. A person who has lost his remedy by lapse of time loses his right as well.

7. The learned counsel for the applicants fervently argued that the juniors have been promoted, so seniors should not be ignored. This is fundamental of service jurisprudence. However, if the junior is indolent, then he himself is to blame. Courts helps the vigilant and not the indolent.

8. The learned counsel for the respondents has also referred to a decision of the Principal Bench in OA.702/93 decided on 26.10.94 Hoshiyari Devi Vs UOI in which also the petitioners were represented by the same counsel


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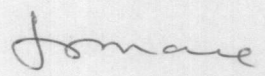
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and reliefs were disallowed on the ground of limitation.

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9. In view of the facts and circumstances of the case, the present application does not call for any relief to be granted to the applicants and the same is dismissed as such, leaving the parties to bear their own costs.


(B. K. Singh)
Member(A)


(J. P. Sharma)
Member(J)

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