

Central Administrative Tribunal, Principal Bench

Original Application No. 2274 of 1993

New Delhi, this the 7th day of September, 1999
Seniority.

(20)

Hon'ble Mr. Justice K.M. Agarwal, Chairman
Hon'ble Mr.N.Sahu, Member (Admnv)

D.S.Rana, S/o Shri S.S.Rana, Aged
about : 46 years, R/o E-58,
I.B.Colony, Sardar Patel Marg, New
Delhi- 110 021

AND EMPLOYED AS

Junior Intelligence Officer Gr.I
(General) in the Intelligence Bureau,
Government of India, Ministry of Home
Affairs, North Block, New Delhi.

- Applicant

(By Advocate - Shri B.B.Raval)

Versus

1. Union of India through the Secretary, Ministry of Home Affairs, Government of India, North Block, New Delhi-110001.
2. The Director, Intelligence Bureau, Ministry of Home Affairs, Government of India, North Block, New Delhi.
3. Shri Vinay Prasad, Assistant Central Intelligence Officer Grade.II (General) in the Intelligence Bureau, Ministry of Home Affairs, C/o Respondent No.2. - Respondents

(By Advocate Shri N.S.Mehta)

O R D E R

By Mr.N.Sahu, Member(Admnv) -

The applicant impugns the order dated 23.9.1993 rejecting his representation regarding seniority and promotion.

2. The applicant was posted as Security Assistant (in short 'SA') after selection in July, 1969. He had spent 7 years in very remote places. He got his promotion as Junior Intelligence Officer Grade-II (General) [in short 'JIO-II(G)'] in Feburary, 1980 and thereafter as Junior Intelligence Officer Grade-I (General) (in short 'JIO-I (G)') in

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September, 1989. His grievance is that persons junior to him were promoted to the next higher grade of Assistant Central Intelligence Officer Grade-II (General) [in short 'ACIO-II (G)'] many years back. He particularly cites the case of Shri Vinay Prasad, who joined the Intelligence Bureau (in short 'IB') in September, 1969 as SA and thus junior to him but he was promoted as JIO-II(G) on 28.7.75, as JIO-I(G) on 15.1.80 and as ACIO-II (G) on 13.9.1988.

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3. After notice, the respondents stated that there are units of the IB in different States known as Subsidiary Intelligence Bureau (in short 'SIB') headed by a Deputy Director. The applicant worked under SIB Chandigarh for 3 years and under SIB Lucknow for 14 years. He worked in IB Headquarters Delhi from May, 1986. He earned the first promotion as JIO-II(G) in February, 1980 under SIB Lucknow. The respondents state that under the rules there is a minimum of 8 years service as JIO-II for promotion to the grade of JIO-I. After completing this, the applicant was promoted as JIO-I in September, 1989. Under the existing rules the members of the decentralised cadre of SA and JIO-II claimed their seniority and promotion within their respective cadre. The applicant, therefore, cannot compare his promotion with the members of the other decentralised cadre. Shri Vinay Prasad joined a different decentralised cadre on a different recruitment. As the applicant was promoted after putting in 8 years of JIO-II (G) to JIO-I in September, 1989 there should be no cause for grievance as these promotions were on decentralised basis. Though after the statutory rules were revised in 1982

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promotions in senior grades have been centralised. There can be no common seniority list for decentralised cadres and their seniority is determined in accordance with Home Ministry's circular dated 15.2.1980. The applicant was transferred at his own request from one unit to another unit i.e. to SIB Bareilly, Lucknow and he enjoyed the benefits of his home town posting. Since the applicant was transferred at his own request, he would not be given the benefit of his past service for determining his seniority. IB Recruitment Rule 1982 by which JIOs-II were centralised but SAs remained decentralised was dated 19.2.1982 and was circulated widely.

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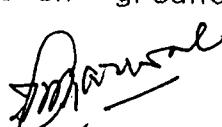
4. We have carefully considered the submissions of rival counsel. The SAs recruited in SIB Trivandrum had a similar problem of their junior belonging to different SIB unit getting promotion earlier to them. They moved the CAT Ernakulam Bench in the case of G. Muraleedharan Nair & another Vs. Assistant Director (Admn) SIB, Trivandrum & others, O.A.No. 806/90 decided on 16.10.1991. The Bench dismissed the plea of those persons. The respondents denied that the applicant reported for duty at IB Headquarters in July, 1969. They confirmed that the applicant joined at Srinagar and he was assigned seniority with effect from 3.8.1969. Within three years he was posted to Almora at his home district. His seniority in SIB Lucknow was fully protected. His promotion was given according to his status under SIB Lucknow. He could not compare himself with other SAs in different cadres.

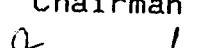
5. The applicant does not have a case on merits but we are also satisfied that this OA filed on

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10.5.1994 is barred by limitation. Even the impugned order dated 23.9.1993 states that each of his representation was examined and replied to. The applicant refers to his representations as early as on 16.12.1987 as also his representation in November, 1991. A reference is invited to his representations dated 5.2.1990 and 20.3.1990 referred to in the memo dated 27.3.90 (Annexure-4) and the respondents have carefully examined those representations in their letter dated 27.8.1990 (Annexure-A-4). The applicant had not moved the Court even after the replies were received to his earlier representations. He wants his promotion as JAO-II G) to be ante-dated after lapse of 10 years. He wants to unsettle the seniority of different decentralised cadres as it existed before the new rules were in vogue in February, 1982.

6. The Supreme Court has held that merits apart such a request which has the result of destabilising the entire cadre could not be encouraged. It is clear that the cause of action started during the 1980's and the applicant did not move the Court at that time. The OA is hopelessly barred by limitation. Thus, this OA is dismissed both on merits as well as on grounds of limitation.


(K.M. Agarwal)
Chairman


(N. Sahu)
Member(Admnv)