

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.369/1993.

(7)

New Delhi, this the 10th day of September, 1998.

HON'BLE MR.JUSTICE K.M. AGARWAL, CHAIRMAN
HON'BLE MR. R.K. AHOOJA, MEMBER (A)

Shri C.E.M. Dhinakaran,
Asstt. Director Supplies Gd-II,
D.G. S & D,
New Delhi.

....Applicant.

(BY ADVOCATE SHRI R.DORAISWAMY)

versus

Union of India,
through D.G. S & D,
Jeevan Tara Building,
Parliament Street,
New Delhi-1.

...Respondent

(BY ADVOCATE SHRI N.S.MEHTA)

ORDER

JUSTICE K.M.AGARWAL:

In this O.A., the applicant has sought the following reliefs:

- (i) Refund of Rs.6,793/- with interest at the rate of 12% per annum; and
- (ii) Restoration of pay fixation at Rs.2,300/- as on 4.1.1990, payment of yearly increments and consequential arrears.

2. Briefly stated, the applicant was initially appointed as an Examiner of Stores in April 1974 in the Office of the Director of Inspection, Bangalore. He was first promoted as Junior Field Officer in July 1983 and posted at Madras in the Office of the Director of Supplies and Disposal. He was given next promotion to the post of A.I.O.(Engg) with effect from 4.7.1988 in the pay scale of Rs.2000-3500 and transferred in the Office of the Deputy Director of Inspection, Hyderabad. His basic pay on the promotional post was fixed at Rs.2,240/-. He was, thereafter, selected for the post of Assistant Director (Supplies), Grade II by the Union Public Service Commission, which carried the same pay scale of Rs.2000-3500 as was the scale for the post of A.I.O.(Engg),

which was held by him on the date of his selection by the U.P.S.C. After selection, he was posted at New Delhi in the Office of the respondent with effect from 4.1.1990. The applicant claims that on his promotion to the post of A.I.O.(Engg) in July 1988, his basic pay was correctly fixed at Rs.2,240/- as on 4.7.1988 and complains that by an illegal order dated 8.8.1990, Annexure A-2, of the Deputy Director of Inspection, Hyderabad, it was wrongfully reduced to Rs.2000/- as on 4.7.1988 and on that basis, recovery of the alleged overpayment of Rs.6,793/- was improperly made from the applicant pursuant to an order dated 11.9.1990, Annexure A-3, of the respondent. Accordingly pay fixation by the respondent at Rs.2,060/- as on 4.1.1990 by their order dated 31.8.1990, Annexure A-2, is also challenged.

3. Besides relying on the provisions of F.R. 22-I(a) & (c), the learned counsel for the applicant also relied on a common decision of the Madras Bench of this Tribunal in O.A. No.1006/89, **K.S. SRIDHARAN v. UNION OF INDIA** and in two other O.As., decided on 6.3.1991. However, it does not appear necessary to mention that F.R. 22-I(c) has been omitted, or to discuss F.R. 22-I(a) or the decision of the Madras Bench of the Tribunal, because the present O.A. is apparently barred by time. Though the reliefs claimed in this O.A. are consequential in nature, which cannot be granted unless the orders pursuant to which the impugned recovery and pay fixation were made, were challenged, the applicant has deliberately omitted to claim any relief in reference to the orders which formed the bases for the impugned recovery and pay fixation. May be, realising the bar of limitation, the applicant avoided to make a prayer for quashing the orders, Annexures A-2, A-3 and A-4, dated 8.8.1990, 31.8.1990 and 11.9.1990 respectively, which were the bases for the impugned actions. In this indirect method, he cannot be allowed to circumvent the bar of

limitation.

4. For the foregoing reasons, this O.A. deserves to be dismissed and is hereby dismissed, as the main reliefs due to bar of limitation have not been claimed by the applicant in this O.A. However, there shall be no order as to costs of this O.A.


(K.M. AGARWAL)
CHAIRMAN


(R.K. AHOOJA)
MEMBER (A)