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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 558/93

DECIDED ON : 30.3.93

Manohar Lal Saigal

... Applicant

Versus

Union of India & Others

... Respondents

CCRAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri G. D. Bhandari, Counsel for the Applicant

J U D G M E N T

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

The applicant who has retired as a Vigilance Officer, Northern Railway, Baroda House, New Delhi w.e.f. 31.10.1984 has filed this application for the benefit of the judgment dated 14.12.1991 given in O.A. No. 508/88 - B. K. Kapoor & Ors. vs. Union of India & Ors. wherein the Tribunal has granted relief to the applicants therein of protection of their pay from the dates their juniors were promoted in the scale of Rs.840-1040 as Senior Wagon Movement Inspectors. As a consequence of the above fixation of pay the applicant also has a grievance of non-fixation of pay in Class-II post on superannuation. The applicants in O.A.508/88 as alleged were given that benefit even in the grant of gratuity, pension etc. The applicant submitted representation on 18.3.1992 after learning about that judgment delivered in December, 1991 but he did not receive any reply. Hence, the present application has been filed praying for the following reliefs :-

- (a) To command/direct/order the respondents to give pay protection to the applicant under Rule 2018-B(FR-22 C) and Railway Board's letter dated 23.7.1976 (A-5), as compared to his

juniors so as it is at par with the pay given to the juniors, by first fixing the applicant's pay in grade Rs.840-1040 on notional basis and then in Group 'B' post.

- (b) Command/direct/order the respondents to give the benefit of judgment order dated 4.12.91 in O.A.508/88 (A-22) as given to the applicants therein who are junior to the applicant.
- (c) Command/direct/order the respondents that after so re-fixing the pay of the applicant, to re-calculate and make payment of the arrears so accruing to the retiral benefits as also the arrears of pay and other allowances with interest @ 15% per annum.

2. The applicant has also moved M.P. 690/93 for condonation of delay contending that the respondents have refused giving the benefit of pay protection under rule 2018-B corresponding to FR-22C; that the applicant knew about the judgment in March, 1992 in O.A.508/88 decided on 4.12.1991, hence, the delay in filing this application.

3. We have heard the learned counsel for the applicant on admission and limitation. The applicant has already retired on 31.10.1984. B. K. Kapoor & others filed O.A.508/88 on 24.3.1988. The contention of the learned counsel for the applicant is that he was selected as SWMI on 15.3.1976. He was promoted in Class-II vide orders dated 7.7.1978. On promotion his pay was fixed as Rs.880/- w.e.f. 7.7.1978 in Group 'B'. He was already drawing the pay of Rs.830/- as SWMI in grade Rs.700-900. Subsequently, there were promotions ordered in grade Rs.840-1040. Because the applicant had already been promoted to Class-II on 7.7.1978, he was not included. His case is that the juniors B. K. Kapoor, O. P. Datta and Narinder Nath Sharma, juniors to him, had been granted pay fixation after being notionally fixed in the grade Rs.840-1040 vide judgment dated 4.12.1991. In fact, the case

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of B. K. Kapoor and others was peculiar to those applicants only and it cannot be said that that is a judgment in rem. In the case of State of Punjab vs. Gurdev Singh : 1991 (4) SCC p.1 it has been held by the Hon'ble Supreme Court that an aggrieved party has to approach the court for relief or declaration within the prescribed period of limitation since after the expiry of the statutory time limit the court cannot give the declaration sought for. Further, in the case of S. S. Rathore vs. State of M.P. : AIR 1990 SC 10 the Hon'ble Supreme Court has already held that repeated unsuccessful representations not provided by law do not enlarge the period of limitation. Further, in the case of Bhoop Singh vs. Union of India : JT 1992 (3) SC 322 it has been held by the Hon'ble Supreme Court that judgment or orders of the court do not give cause of action. The cause of action has to be reckoned from the actual date. In the present case, the relief claimed by the applicant as quoted above is regarding pay protection as given to his juniors by fixing the applicant's pay in the grade of Rs.840-1040 and then in Group 'B' post. It is with effect from 7.7.1978. The reasons given only in the grounds are that the applicant is entitled to the benefit of the judgment given in the judgment in O.A.508/88 (supra). The applicant at no point of time has made a representation nor assailed that grievance when he was in service of the respondents and before his superannuation. After 31.10.1984 if any judgment has been given in favour of some other similarly situated staff members, then that will not re-open the case of the applicant and he cannot be given the benefit in a stale matter. In the application for condonation of delay the applicant has only averred that he came to know of the judgment in

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March, 1992. That cannot be taken to be reasonable and probable cause to condone the delay. The M.P. for condonation of delay, therefore, is without any reason. The Tribunal also cannot assume any jurisdiction in the matter in which a cause of action has arisen three years earlier to coming into force of the Administrative Tribunals Act, 1985.

4. In view of the above facts and circumstances, the present application is hopelessly barred by limitation and also not within the jurisdiction of the Tribunal and as such dismissed in limini at the admission stage itself as barred by time.

S. R. Adige
(S. R. Adige)
Member (A)

J. P. Sharma
30.3.93
(J. P. Sharma)
Member (J)

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