

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.980/93
MA-367/95

(9)

New Delhi this the 13th day of July, 1999.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN (J)
HON'BLE MR. N. SAHU, MEMBER (A)

Mrs. Anita Arora,
W/o Sh. Satinder Kumar,
R/o D-24, Amar Colony,
Lajpat Nagar,
New Delhi.

...Applicant

(By Advocate Shri Vivekanand)

-Versus-

1. Council of Scientific and
Industrial Research (Registered
and constituted under Societies
Registration Act, 1860,
through its Joint Secretary (Admn.),
Rafi Marg,
New Delhi.

2. Central Road Research Institute,
through its Director,
Mathura Road,
New Delhi.

...Respondents

(By Advocate Mr.V.K. Rao)

O R D E R

By Reddy. J.:

The Central Road Research Institute, the second respondent herein advertised for applications for filling up the posts of JAC in the pay scale of Rs.425-700. The applicant has applied for the post alongwith others. A properly constituted selection committee interviewed all the candidates on 14.12.81. The Selection Committee recommended the selection of nine candidates from the general community, two from SC community. In addition to the said selection list it also recommended seven other candidates including the applicant. A panel was drawn which was valid for a period of one year. The applicant's name was at serial no.14 in the said panel. The

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respondents decided to appoint only 13 persons out of the panel of 18 candidates. One of the 13 candidates so appointed, namely, Shri Bhatnagar did not join and hence his place was offered to applicant who was next in the panel at serial No.14, by order dated 3.3.82. The applicant joined as JAC on 4.3.82.

2. The applicant submits that under the New Recruitment and Assessment Scheme (NRAS) a "faster track promotion" was made available to the present incumbents serving with the respondents who have got the prescribed entry level qualification for the next higher grade who have selected and appointed before 31.12.81. Subsequently, respondents were also allowed this benefit by a circular (Annexure A-7) dated 19.5.84 stating the Scientific/Technical Staff possessing the necessary qualifications prescribed for the next higher group who have been actually selected for appointment by the selection committee upto 31.12.81 but could not join their appointment by that date because of non-completion of essential formalities. The respondents, however, have not considered the case of the applicant for faster track promotion on the ground that she did not join the service by 31.12.81 but only in March 1982. The applicant made several representations seeking the benefit of the faster track promotion on the ground that she was also selected for appointment before 31.12.81 though she joined by March 82. Hence, she comes within the meaning of the circular. In response to several representations made by her only on 27.1.93 (Annexure A-12) the respondents rejected her claim stating that though she was selected before the cut off date since her appointment was not due

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to delay in essential formalities but only due to the fact that her inclusion in waiting list in the interview on 4.3.82 on the failure of the selected candidate to accept the appointment. The applicant, therefore, filed this OA in 1993, seeking a direction to the respondents to give the faster track benefit from the date of her appointment with all consequential benefits.

3. She also filed an application for condonation of delay. It was stated by her that the benefits under the circular were given to others in 1985 but she was declined. Hence she made several representations one after the other to the respondents to give her the benefit since 1985 but the reply was given only in 1993. It was also urged that it was a continuing benefit as she was entitled to be considered for faster track promotion after every three years along with her colleagues for promotion to the next higher grade and she has been making representations whenever her colleagues have been considered for promotion. She has also approached the Central grievance Committee for redressal of her grievance in 1993. She filed the present O.A. on 19.4.93 and hence it was submitted that the application was in time. The learned counsel for the applicant, therefore, contends, on merits, that as she was selected for appointment and kept in the waiting list she was entitled to be considered for faster track promotion in accordance with the language of the circular dated 19.5.84. Though she joined later in March 1982, the date of actual joining has no relevance for the purpose of giving the benefit under the said circular.

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4. Learned counsel for the respondents however has taken the preliminary objection that the OA was hit by limitation. Since the impugned circular was passed in 1984 and the applicant was not considered for Faster Track Promotion in 1985 she should have filed the OA within a period of one year after awaiting for six months from the date of representation. Since the OA was filed in 1993, it is belated. Learned counsel also submitted that the benefit of Faster Track Promotion was given as one time measure at the time of introduction of the scheme w.e.f 1981. It was also contended that the respondents implemented the New Assessment and Recruitment Scheme (NRAS) w.e.f. 1.2.1981 whereas there was a provision for Faster Track Promotion whoever were in service in the CRRI from 1.2.81 to 31.12.81. The present circular dated 19.12.84 the benefit of Faster Track Promotion was extended to those incumbents also who were selected for appointment before 31.12.81 but could not join due to non-completion of essential formalities. In view of that circular four persons out of 13 were given the benefit of Faster Track Promotion. Since the applicant did not challenge about his case being not considered as per the circular, it is not a case of continuance cause of action. The scheme was only upto 31.3.1988 and w.e.f. 1.4.88 and new scheme was introduced called 'MANAS'. Hence the assessment and promotion process in 1987 and 1991 do not give any fresh cause of action to the applicant.

5. We take up the question of limitation which appears to be formidable to the applicant's claim. Elaborate arguments have been heard on this question.

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There is no dispute on the facts that the applicant appeared before the Selection Committee for the post of JSA on 14.12.81. Her name was included in the panel of 14 names of the selected candidates. Since the respondents decided to appoint only 13 persons out of the panel of 18 selected candidates appointment orders have been given to the 13 selected candidates. The applicant was offered the post by appointment order dated 4.3.1982. The scheme called N.A.R.S. under which Faster Track Promotion was given to the original applicants who were in service of the CRR I between 1.2.81 to 31.12.81. This benefit was later extended by the Circular dated 19.5.84 to the persons who were selected before 31.12.81 but could not join service on account of non-completion of official formalities. The applicant's claim is that she was entitled for the benefit under this circular on the ground that she was selected before 31.12.81 in the interview held on 14.12.81. This circular is crucial in this case. By virtue of this circular, the benefit was conferred upon the applicant as she was selected before 31-12-81. It is the case of the applicant that as she was not considered in pursuance of the said circular and she received the reply in 1993, under Sections 20 and 21 of the Administrative Tribunals Act, 1985 limitation starts from the date when the cause of action arose, i.e., when an adverse order was passed. After filing the representation the applicant can only wait for six months for the reply. Limitation starts therefrom. Thereafter, of one year an application should be filed before the Tribunal. The repeated representations will not prolong the period of limitation. This proposition is fully explained in S.S. Rathore vs. State of M.P. (AIR 1990

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SC p.10). The contention that ^{it was a} ~~the~~ continuous cause of action is also not tenable. As stated by learned counsel for the respondents this benefit was given under the circular only as a one time measure. When once the case of the applicant was not considered under the circular in 1985 alongwith others the grievance of the applicants arises. On the applicant's own showing the circular dated 19.5.84 in respect of the Faster Track Promotion applicant's name was not considered in 1985. On the ground that she was not covered by the said circular. On the basis of the said circular those who were eligible were considered in 1985 itself it cannot therefore be said that the cause of action is a continuous one. We, therefore, have no hesitation in holding that the OA is hit by limitation. // Next it has to be seen whether there is sufficient cause for the delay. In the application filed for condonation of delay it was stated that the applicant filed a representations dated 18.6.85 and 22.6.85 requesting the respondents to include her name in the Faster Track Promotion Scheme but no reply to the same was given. It was further stated that in response to the representation made on January 1993 the respondents by letter dated 27.1.93 rejected her claim whereafter she approached the Tribunal. It is thus seen that the applicant has not given any reason whatsoever for the in-ordinate delay of 8 years from the date when the cause of action arose. It is well settled that equitable considerations should not come in way of this Tribunal in the matter of limitation. The Hon'ble Supreme Court in P.K. Ramchandran Vs. State of Kerala & Anr. JT 1997 (8) S.C. 189 the case is categorically held as follows:-

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" Law of limitation may harshly affect a particular party but it has to be applied with all its vigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds."

6. Due to the aforesaid reasons we are of the view that the applicant has not satisfied the delay occurred in filing the OA.

7. The MA- 367/95 is, therefore, dismissed.

8. Consequently the OA also stands dismissed. *NO costs.*
CRS


(N. SAHU)
Member (A)


(V. RAJAGOPALA REDDY)
Vice-Chairman (A)

'San.'