

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad this the 23<sup>rd</sup> day of March, 98.

O.A. No. 374 of 1997.

HON. MR. D.S. BAWEJA, MEMBER(A)

HON. MR. J.P. SHARMA, MEMBER(J)

Harpal Singh, aged about 37 years, son of late Shri Mukhram Singh resident of 126/3 Lower Camp (Lal Gate) Dehradun Cantt. C/o Garrison Engineer Mal Road, Dehradun Cantt.

Applicant.

By Advocate Shri Ashish Srivastava.

versus

1. Union of India through Engineer-in-Chief, Army Headquarters, D.H.Q., P.O. New Delhi.
2. Chief Engineer, Head Quarter, Central Command, Lucknow.
3. Chief Engineer, Bareilly Zone- Sarvastra Bhawan, Station Road, Bareilly Cantt.
4. Commander Works Engineer No. 1, Dehradun.
5. Garrison Engineer, Dehradun.

Respondents.

O R D E R

HON. MR. J.P. SHARMA, MEMBER(J)

on 1-4-97

The applicant has filed this O.A. praying for the following reliefs:

"a).....to issue a direction to the respondent No. 2 to give promotion on the post of U.D.C. to the petitioner as early as in 1983 after completion of 3 years of service against the vacancy of Scheduled tribes in view of the policy dated 2.4.1979 and a further direction may also be issued that the petitioner's seniority may be fixed accordingly;

b) a direction may be issued to the respondent No. 2 to accord all the benefit and privileges including monetary to the petitioner after giving promotion on due date in view of the policy dated 2.4.1979 on the post of U.D.C. AGAINST THE VACANCY OF Scheduled Tribes candidates.

c) a further direction may be issued to the respondent No.2 that the petitioners' candidature may be considered for promotion on the post of Office Superintendent after giving promotion on the post of U.D.C. and fixing his seniority alongwith the appointees of 1980 in other command and in case he is found eligible for promotion he may be promoted and he may also be given the monetary benefit including the seniority in the cadre of office Superintendent."

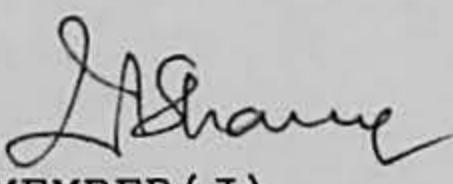
2. The applicant's case briefly stated is that he belongs to S-scheduled Caste community. He was appointed as L.D.C. in the year 1980. The next promotion from the post of L.D.C. is the post of U.D.C. which is given on completion of 3 years satisfactory service as L.D.C. The respondents <sup>on</sup> ~~on~~ October 10, 1984 issued a panel containing the name of L.D.Cs who had been selected for promotion to the post of U.D.C. In that panel candidates at serial Nos. 45 to 59 who belonged to the general category were promoted against ~~a~~ vacancy of Scheduled Caste candidates. Since, as per entitlement as well as policy letter, the vacancy of the Scheduled Caste candidates have to be filled in by Scheduled Tribe candidates first, the applicant moved an application on 17.1.86 to the respondent No. 1 that he may be given promotion to the post of U.D.C. against a vacancy of Scheduled Tribe and Scheduled Caste candidate as the quota of Scheduled Tribe candidate is lying unfilled. On 5.2.86, the respondent No. 2 issued letter to the respondent No. 3 for informing the applicant that his seniority in the grade of L.D.C. is very low and as such he is not yet due for promotion as S.C. candidate. Similarly, on December 15, 1986, the respondent No. 2 issued another panel for promotion to the post of U.D.C. through which most of the vacancies of S.C. candidates were allowed to general candidates. On 16.4.87, the applicant submitted another representation to the respondent No. 1 against the promotion of general candidates against the S.T. candidates. On 15.3.88, another panel for promotion to the post of U.D.C. was

published through which again some general candidates were promoted to the post of U.D.C. against the vacancies of S.T. The respondents did not consider the representation of the applicant against the said promotions. Again on 7.10.94, the respondent No. 2 issued a penal for promotion from L.D.C. to U.D.C. and candidates from serial Nos. 22 to 30 <sup>who were &</sup> ~~ever~~ general candidates were again given promotion against S.T. vacancies. The applicant again approached the respondent No. 2 by representation dated 24.11.94 in which it was mentioned that since S.C. candidates were available with the department, the question of bringing the candidates in the panel against S.T. vacancies and to regularise the said promotion does not arise. Mention was also made about the Govt. of India, Department of Personnel Memo dated 2.4.79 regarding the same. Since no attention was paid to the applicant's repeated requests, the applicant again represented his case to the respondent No. 1 giving reference of the earlier representations. It has been further stated that though the petitioner was promoted by the respondent No. 2 on the post of U.D.C. on his own turn, he was not given promotion with retrospective effect from the year 1983. The applicant sent a reminder to his earlier representation on 12.8.96. On 3.10.96, the respondent No. 4 had received a communication from respondent No. 3 stating that the respondent No. 2 had informed that a review D.P.C. had been convened by the respondent No. 2 and the case of the applicant shall be taken up for consideration.

3. We have heard the learned counsel for the applicant on the point of limitation.

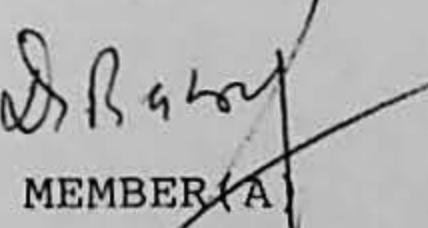
4. The applicant has prayed for promotion on the post of U.D.C. since 1983 and <sup>for</sup> ~~other~~ reliefs. The other reliefs can be given only if his relief for promotion to the post of U.D.C. in the year 1983 is allowed. According to section 21 of the Administrative Tribunals Act, 1985 a

government servant should immediately agitate for his legitimate claim against the adverse order and on getting adverse order against him within a period of one year or after lapse of six months from the date of representation for which no reply has been received. In the present case the applicant has claimed promotion for the post of U.D.C. since the year 1983 when he completed 3 years on the post of L.D.C. although promotions were made on the post of U.D.C. on 10.10.84, 15.12.86, 15.3.88 and <sup>10</sup> on October/1994 and the applicant was not promoted during the above period. It may also be stated that the representation of the applicant dated 17.1.86 was rejected by the respondent No. 2 for promotion to the post of U.D.C., his successive representations made against the promotion of the general candidates on the post of U.D.C. against the vacancy of S.T. candidates do not further extend the period of limitation. The learned counsel for the applicant has cited 1997, SCC(L&S), 315 Malkan Singh vs. Union of India and others which is not relevant regarding the point of limitation. The O.A. having not been filed within the period prescribed, is barred by limitation and deserves to be dismissed. The same is dismissed. No order as to costs.

  
MEMBER(J)

Allahabad; Dated:

Shakeel/

  
MEMBER(A)