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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1230 of 2005

Allahabad this the 19th day of October, 2005

Hon'ble Mr. A.K. Bhatnagar, Member (J)
Hon'ble Mr. D.R. Tiwari, Member (A)

Smt. Renuka Devi, Wife of Sri Vijendra Kumar R/o 217
Type II, I.T.I., Kanpur, District Kanpur.

Applicant

By Advocate **Shri Ajit Kumar**

Versus

1. Union of India through Secretary, Ministry of Labour, New Delhi-1.
2. Central Provident Fund Commissioner, 14, New Bhikaji Cama Place, HUDCO, VISHALA, NEW DELHI.
3. Regional Provident Fund Commissioner, U.P. Nidhi Bhawan, Sarvodaya Nagar, Kanpur.

Respondents

By Advocate **Shri N.P. Singh**

O R D E R

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

By this O.A., the applicant has prayed for the following reliefs:-

"A. The Hon'ble Tribunal be pleased to quash the recommendation of the D.P.C. dated 15.07.1994 issued by respondent no.2;

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B. The Hon'ble Tribunal be pleased to quash the Order of approval issued by respondent no.2 dated 09.01.1996.

C. The Hon'ble Tribunal be pleased to quash the order dated 02.05.2005 read with order dated 28.3.2005 issued by Assistant Provident Fund Commissioner-Kanpur (Annexure-2);

D. The Hon'ble Tribunal be pleased to issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case;

E. That the cost of the application be awarded to the applicant.

2. According to the applicant she was initially appointed on the post of Lower Division Clerk on 09.03.1977 in the respondents' establishment. She was promoted as Upper Division Clerk on 05.04.1980. Thereafter, she became entitled for promotion to U.D.C. Special Grade Rs.1400-2300/- after completion of 17 years clerical service on 08.03.1994. When the promotion was not granted, she filed various representations from 05.02.1997 onwards and finally on 25.08.2004, which was replied by the respondents on 28.03.2005(annexure-1), which is impugned in the present O.A. Learned counsel for the applicant submitted that in view of the letter dated 17.03.1992 the applicant had become entitled to the promotion of U.D.C. (SG) Grade Rs.1400-2300 just after completion of 17 years of clerical service, therefore, the respondents were bound to give promotion to the applicant as soon as she completed the said period of service.

3. On the other hand learned counsel for the respondents raised preliminary objection of question of limitation.

4. Heard the counsel for the parties and perused the record.

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5. The applicant in this case has sought quashment of recommendation dated 15.07.1994 and order of approval dated 09.01.1996 alongwith quashment of orders dated 28.03.2005 and 02.05.2005.

6. We have also gone through letter dated 28.03.2005 (annexure-1) and corrigendum letter dated 02.05.2005, whereby it is intimated to the applicant that she was not adjudged as suitable for the post of U.D.C. (SG) while the D.P.C. which met on 15/07/94. Her case was recommended by the subsequent D.P.C. and approved by the letter dated 09.08.1996. Hence, she was elevated to the post of U.D.C (SG) with effect from 20.10.1995. In such view of the matter, we find that the cause of action arose to the applicant in the year 1994 or 1996 against which the applicant is stated to have sent representations from 05.02.1997 onwards. The law is well settled on this subject that filing representations do not help in extending the period of limitation. Applicant could have waited for six months and then filed the O.A. in August, 1997. The present O.A. has been filed on 14.09.2005, after a gap of more than 8 years seeking quashment of recommendation dated 15.07.1994 and order of approval dated 09.01.1996. It is also clearly stated in the last line of Order dated 28.03.2005 that she was elevated to the post of U.D.C (SG) with effect from 20.10.1995. It is also found that no Delay Condonation application has been moved by the applicant alongwith this O.A.

7. We are aware of the law laid down by the Hon'ble Supreme Court in the case of "Ramesh Chandra Sharma Vs. Udhamp Singh Kamal ¹⁹ AISLJ 2000 (2) 89, in which it is clearly laid down that time barred applications cannot be entertained and limitation cannot be waived unless it has been applied for.

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8. Under the facts and circumstances and in view of the law laid down by the Hon'ble Apex Court, we are of the view that this O.A. is not maintainable being time barred. Therefore, the O.A. is dismissed in limine being grossly barred by period of limitation. No order as to costs.

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Member (A)

J. M.

Member (J)

/M.M. /