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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH,

ALLAHABAD.

O.A. NO. 362/86

R.C. Srivastava Applicant.

Vs.

Union of India & others..... Respondents.

Hon'ble Mr. Maharaj Din, Member (J)

This is an application under section 19 of the Administrative Tribunal Act praying for the declaration of the order dated 23.1.1982 and 3.12.1983 for not allowing of crossing of efficiency bar are illegal, inoperative and without jurisdiction.

2. The relevant fact giving rise to this application are that the applicant while posted as superintendent in the scale of Rs 550-25-750-EB-30-900 under the respondents, was to be allowed to cross efficiency bar at Rs 750/- with effect from 1.7.1976. The applicant was informed through letter dated 7.1.1977 that he was not allowed to cross efficiency bar at the stage of Rs 750/- with effect from 1.7.1976. The applicant was however informed vide letter dated 3.12.1983 that on the recommendation of the departmental Promotion Committee, he was allowed to cross efficiency bar at the stage of Rs 750/- with effect from 1.7.1981 instead of 1.7.1976. As such the applicant alleged to have suffered loss to the tune of Rs 50,000/-.

3. The respondent filed reply and have stated besides other pleas that the application of the applicant is barred by limitation.

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4. I have heard the learned counsel for the parties and gone through the record of the case. The applicant made a representation for being not allowed to cross efficiency bar with effect from due date i.e, 1.7.1976. He has stated that this representation was disposed of arbitrarily and illegally and behind his back as he was not given any opportunity to have his say in the matter before the decision was taken. No reason is required to be given for with-holding of efficiency bar. According to Gai's decision no.(3) below F.R. 25, where there is a decision to enforce the bar against the Government servant, he should be informed of the same. It does not provide for communication of detailed reasons. So the contention of the applicant that the order of with-holding the crossing of the efficiency bar is arbitrary as no reason is assigned, is not tenable.

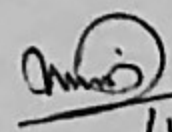
5. The applicant in the rejoinder filed to the counter affidavit, has admitted that he earned the adverse remarks consequitively in the years 1975, 1977 and 1978 in his character role entry and in para 17 of the rejoinder, it has been specifically said that the deficiencies of the applicant were duly communicated to him. It shows that the performance of the applicant was not up to the standard. So, he was not allowed to cross efficiency bar. Thus taking into account these facts, it can not be said that the order of the respondents not allowing to cross the efficiency bar to the applicant was arbitrary.

Ans

6. The ^{on-}other aspect of the case is that the present O.A. is barred by limitation. The applicant was informed of decision of not allowing to cross the efficiency bar vide order dated 3.12.1983. The applicant instead of filing statutory appeal within the prescribed limit of 45 days, made a representation to the Secretary, Department of statistic on 17.8.1984, even if this is taken as an appeal, the same is barred by the limitation. The applicant has also failed to file the application in the Tribunal within the prescribed limit of one year from the date of expiry of the period of six months of the said representation i.e, 17.8.1986. The applicant could have filed the O.A. within one and half years from 17.8.1984 which comes some time in the month of February 1986 whereas the O.A. has been filed on 29.7.1986. No application for condonation of delay for filing the O.A. has been moved not the delay has been condoned so far. Thus the application of the applicant is also barred by limitation.

7. In view of the discussion made above the application of the applicant is hereby dismissed with no order as to cost.

Dated:-


14.8.82
J.M.