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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO. 612 OF 1986.

Bhagwan Deen Sachan Applicant

Versus

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

Hon.Ajay Johri-AM
Hon.G.S.Sharma-JM

(Delivered by Hon.G.S.Sharma-JM)
.....

This is an application under section 19 of the Administrative Tribunals Act No.XIII of 1985. The applicant was initially appointed as Mail-Man on 27-5-1964 and worked on this post upto 1978 and he is said to have been ^{then of} promoted in the cadre of Clerks/Sorters. The allegation of the applicant is that he had first appeared in the departmental examination held on 7.11.1971 for promotion as departmental lower grade official and had passed the examination on 4.3.1972. As the applicant was not promoted, he again appeared in the departmental examination held in 1978. He was thereafter promoted. On 22.12.1983, the applicant is said to have made a representation to the respondents for giving him the grade from the date of his passing the examination in 1972 and

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arrears of pay from 1972 to 1978 and from 1978 onwards. But when he received no reply of the subsequent reminder dated 26-12-1986, he filed the present application for directing the respondents to decide his representation dated 22.12.1983 regarding his seniority and arrears of pay.

2. As the petition was apparently time-barred, a notice was issued to the respondents to show cause as to why the petition be not admitted. In the Counter-Affidavit filed on behalf of the respondents, it was stated that the record ^{has been weeded out and} of the examination held in 1971 is not available due to lapse of time. As a rule, a person declared successful in the examination at the circle level, and if there is no vacancy in the division, the successful candidate is asked for transfer to other division where the vacancy exists and on his unwillingness, to go on promotion, his claim for promotion is deemed to have been forfeited. The representation dated 22.12.1983 was received in the office of the division and was forwarded to the circle office, Lucknow and the reminders received from the applicant were also forwarded to the Circle office. In the Supplementary Counter-Affidavit filed on behalf of the respondents, it was stated that the applicant had appeared in the promotion examination in 1974 and was caught red handed using

unfair means and he was debarred ^{from} to appearing in the next examination for two years. On his being successful in 1978, he was absorbed in Sorter cadre w.e.f. 11.12.1979. As the applicant was not selected before 1978, the question of his seniority from 1971 and arrears of pay etc. does not arise. The applicant has also filed a Rejoinder-Affidavit stating that it is wrong to say that the record of 1971 examination is not available.

3. We have carefully examined the record in the light of the submissions made before us and find that the applicant was promoted as a Sorter in 1978 or in any case, in 1979. He had filed the present petition on 30-10-1986 with the allegation that he is entitled to seniority and arrears of pay of the promotional post from the date of his ~~transfer~~ ^{passing the first examination}. This part of his claim though, made in alternative, is clearly barred by time. The main relief claimed by the applicant however, is that the respondents be directed to decide his representation dated 22.12.1983 which has admittedly been received. No explanation has come from the side of the respondents as to why the Circle Office did not dispose of the said representation so far.

4. We accordingly direct the respondents to

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decide the representation dated 22.12.1983 of
the applicant within a period of two months
from the date of receipt of this judgment. We make
no order as to costs.

Subarna

MEMBER (J)

Subarna

MEMBER (A)

Dt/4.4.1988/
Shahid.