

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

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Original Application No. 1338 of 1995.

this the 18th day of July 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

HON'BLE MAJ. GEN. K.K. SRIVASTAVA, MEMBER (A)

1. Smt. Girja Devi, W/o late A.P. Srivastava.

2. Ajay Prakash Srivastava, S/o late A.P.
Srivastava.

3. Sanjay Prakash Srivastava, S/o late A.P.
Srivastava.

4. Km. Nidhi Srivastava, D/o late A.P. Srivastava
all residents of Mianpura, Ghazipur.

Applicants.

By Advocate : Sri H.S. Srivastava.

Versus.

1. Union of India through its Secretary, Ministry
of Finance, New Delhi.

2. The Narcotics Commissioner of India, 19,
The Mall Morar, Gwalior.

3. The Deputy Narcotics Commissioner, (Admn.)
19, The Mall Morar, Gwallior.

4. The General Manager, Government Opium &
Alkaloids Works Undertaking Ghazipur.

5. The Asstt. Chief Accounts Officer, Govt.
Opium & Alkaloids Works Undertaking, Ghazipur.

Respondents.

By Advocate : Km. S. Srivastava.

ORDER (ORAL)

RAFIQ UDDIN, MEMBER (J)

The applicant joined as Lower Division Clerk

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(LDC in short) in the Narcotics Department, Government of India, Ghazipur on 5.11.1952 and in due course he was promoted as Upper Division Clerk (UDC in short) on 11.11.1970. The applicant's name was considered for promotion to the grade of Inspector in the year 1975 by the DPC. The applicant was, however, not promoted on the ground that there was no vacancy available in the department. In the meanwhile, the applicant was considered and promoted on the post of Dy. Office Supdt. Level-II w.e.f. 12.9.1980. The applicant was also considered for promotion again in the year 1983 by the DPC, but the applicant failed to appear, hence his case was not considered. Being aggrieved against the action of the respondents, the applicant filed a Writ petition before the Hon'ble High Court at Allahabad in the year 1984, which was subsequently transferred to this Tribunal and registered as T.A. No. 1302 of 1987. In the T.A., the applicant had sought directions to the respondents to promote him to the post of Inspector w.e.f. 24.12.1975 with all consequential benefits. The applicant, in the meantime, retired from service w.e.f. 31.7.90. This Tribunal vide order dated 13.9.91 allowed the aforesaid T.A. of the applicant and issued the following directions :-

- "(i) The respondents shall grant a notional promotion to the petitioner on the post of Inspector w.e.f. 24.12.75 determining his notional pay with due increments till the date of retirement.
- (ii) The respondents shall revise the retiral benefits of the petitioner in accordance with the notional pay so fixed as directed in the preceding clause.
- (iii) The respondents shall revise the retiral benefits of the petitioner within three months of the communication of the order."

2. It appears that in pursuance of the aforesaid order, the applicant was promoted vide order dated 31.1.92 as Inspector w.e.f. 24.12.1975 in the pay-scale of

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Rs. 425-700. Besides the pay of the applicant was also determined in the light of the directions issued by this Tribunal and pensionary benefits were granted.

3. It is pertinent to mention here that the original applicant has since expired on 11.6.2000 and the legal heirs have been substituted in place of the original applicant.

4. The grievance of the applicant is that he submitted a petition on 14.11.1991 by the registered post to the respondents and the same is still pending for consideration wherein he stated that he was entitled to further promotion in the higher grades and his notional promotion on the post of Inspector ipso facto entitled him to further notional promotion on post of higher grades on which any person who was promoted to the post of Inspector later than his date of promotion viz. 24.12.75 had been further promoted. Lastly, he had stated that one Gorakh Nath who was promoted on the post of Inspector on 2.1.76 had been further promoted to the post of higher grades and his salary in the higher grade was determined at Rs. 2675/-. Consequently, on the date of retirement the pay of the applicant should be fixed at Rs. 2675/-. By means of this O.A., the applicant seeks quashing of the order whereby the pay of the applicant has been fixed for the purposes of retiral benefits and to revise the same conferring the retiral benefits to the applicant afresh on the footing that for the purposes of the same and the applicant had to be regarded as having been notionally promoted not only to the post of Inspector, but also to the other higher post on which Sri Gorakh Nath had been promoted and directions to the respondents to entertain and consider the representation, if any, to be made by the applicant.

5. We have heard the learned counsel for the parties and have perused the pleadings on record.

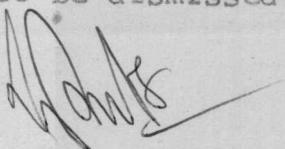
6. It may be stated at the outset that the learned counsel for the applicant has conceded that the notional promotion of the applicant as Inspector, retiral benefits and fixation of his pay on the basis of his notional promotion as Inspector w.e.f. 24.12.75, has been correctly made by the respondents and he has no grievance in this respect.

7. It is, however, contended that after having been promoted as Inspector w.e.f. 24.12.1975 on notional basis, the applicant had become entitled for further promotion in the higher grades, hence the respondents are liable to grant him such promotion and grant other retiral benefits accordingly. It is stated that one Gorakh Nath, who was promoted as Inspector in the year 1976, was lateron promoted in the year 1984, though he was junior to the applicant. Therefore, he is also entitled for such promotion. We, however, do not find any force in this contention of the learned counsel for the applicant because admittedly the alleged junior person namely Gorakh Nath was promoted in the year 1984 and the aforesaid case was also filed by the applicant in the year 1984 and was decided in the year 1991. It was, therefore, necessary to the applicant to include his relief for further promotion in the pending matter i.e. T.A. no. 1302/87. It is a settled law that one must file full claim and the same cannot be filed in piece meal. Besides, the cause of action arose to the applicant in the year 1984, whereas the present O.A. has been filed in the year 1995. Hence, the claim of the applicant for promotion is barred by limitation.

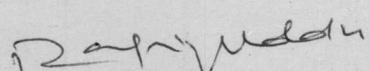
8. The learned counsel for the applicant in

support of his claim has relied-upon a decision in the case of P.S. Mahal & Others Vs. Union of India & Others (AIR 1984 SC 1921) in which it was held that the applicant, therein, would be entitled to arrears of pay and allowances on the basis of her pay fixation from the date of her retrospective promotion and also accrual of increments in the higher post of Deputy Nursing Supdt. from the date of her retrospective promotion. However, we do not consider it necessary to consider the claim of the applicant on merit because as stated above, the claim of the applicant is patently barred by time.

9. For the reasons stated above, the O.A. is liable to be dismissed and is dismissed. No costs.



MEMBER (A)



MEMBER (J)

GIRISH/-