

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 23rd DAY OF JANUARY, 1996

HON. MR. JUSTICE B.C. SAKSENA, V.C.

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

Original Application No. 720 of 1995

Smt. Harmendra Saxena, wife of
Sri Madan Mohan Saxena, LDC Section
P. & P.O.C.F R/o H.No. 207 Katia Tola
District Shahjahanpur

.... Applicant

Versus

1. Union of India through Secretary
Ministry of Defence, New Delhi
2. The A.D.G.O.F, O.E.F
Sarvodaya Nagar Kanpur-5
3. The General Manager O.C.F Shahjahanpur

.... Respondents

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

When this OA came up for orders as regards admission on 31.7.95 it was noted that the applicant was transferred from Cable Factory Chandigarh to Ordnance Factory Shahjahanpur in the year 1981 and at that time his transfer was on stipulation that the applicant will be assigned seniority below the existing staff. The cause of action therefore it was pointed out arose in 1981. The learned counsel for the applicant, however, urged that the limitation should be counted from the date of rejection of the representation vide order dated 15-6-95 in view of the circumstances that the order dated 15.6.95 was passed on an appeal dated 1.2.95 made by the Addl. D.G.C.F Kanpur. The learned counsel was required to make his submission how a decision on a belated representation on a same cause of action would save the petition from being

treated as barred by limitation. On the next date when the case came up the learned counsel for the applicant sought time to explain how the case was/ barred by limitation

X

2. The applicant filed a misc. application no. 2486/95 annexing alongwith/ the copy of a representation dated 24.5.82 seeking restoration of seniority also annexed to the said application/ ^{it} ~~was re~~ Reply to the said representation given on 24.7.92. Also annexed thereto/ ^{was} copy of second and third representations dated 29.7.94. The misc. application was allowed and the documents were directed to be taken on record.

3. The learned counsel for the applicant was heard. The sole question that falls for consideration is whether even on the basis of the documents annexed alongwith misc. application no. 2486/95 the delay in filing the O.A can be condoned. The applicant has sought the relief of a direction to the respondents to maintain the seniority position as in the original seniority list and for scoring off the seniority position assigned ~~with~~ in the current seniority list, Annexure-6. Annexures 5 and 6 both are illegible. From the facts it appears that the original seniority list was drawn before the applicant's transfer from OCF Shahjahanpur to Ordnance/Factory, Chandigarh. Annexure 6 is the seniority list prepared for the cadre of LDC after retransfer of the applicant to Shahjahanpur. From the impugned order it is clear that the transfer of the applicant to both the places viz OCF Chandigarh and OCF

Shahjahanpur were ordered on her own request and not in public interest and the applicant gave her willingness for loss of seniority on both the occasions. The first transfer order was passed on ~~on~~ 31.10.1981 and she was re-transferred back to OCF Shahjahanpur on 3.5.89.

4. The applicant had preferred a representation which was rejected vide order dated 24.7.82 and it was indicated that seniority assigned to the applicant would be from the date of joining the factory on 3.5.89 and ^{not} from the date of initial appointment. Rejection of the request for restoration of seniority vide order dated 24.7.82, a cause of action arose to the applicant. She made a representation in 1989 and thereafter on 29.7.94. It is settled law that repeated representations on the same subject matter would not enlarge the period of limitation. Thus the submission of the learned counsel for the applicant that the order passed on 15.6.95 on the appeal dated 1.2.95 arose a fresh cause of action and therefore the O.A. is untenable. cannot be said to be barred by limitation. The rejection of the representation in the year 1982 is the starting point ^{for} computation of limitation. Belated representations and reiteration of the same order of rejection will not give a fresh cause of action. The O.A is clearly barred by limitation as provided in Section 21 of the Administrative Tribunals Act.

5. Even on merits we are not satisfied that any case, ^{is} there is for interference ~~can~~ made out. As noted hereinabove, a categorical assertion in the impugned order that on both the occasions of ~~the~~ transfer the applicant had given an ^{her} undertaking to accept bottom seniority. It has also been indicated that the transfers were on her own request and not in public interest. The assignment of seniority

(7) (4)

:: 4 ::

on both the occasions to the applicant below the existing staff cannot be faulted. The applicant has not controverted the statement of fact made in the impugned order that the transfer was not on her own request or that she had not given any undertaking for accepting bottom seniority. As a matter of fact, the applicant ^{cannot for} dispute the said position as it is evident from her own representation dated 29.7.94 where she had clearly stated that the transfer was ordered after obtaining undertaking to forgo all her seniority after her joining at Shahjahanpur.

6. In view of the above, the O.A lacks merit and is dismissed summarily.

Member (A)

Vice Chairman

Dated: January, 23, 1996

Uv