

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 14th day of November 2002.

Original Application no. 990 of 1999.

Hon'ble Maj Gen KK Srivastava, Member A
Hon'ble Mrs. Meera Chhibber, Member J.

Bachhoo Lal, S/o late Sri Fakir Chand,
R/o Jatepur, North West Side of Harwara Gate,
Post Office Gorakhnath, Distt. Gorakhpur.
At present posted as Programme Executive
Doordarshan Kendra, Allahabad.

... Applicant

By Adv : Shri R Srivastava

Versus

1. Union of India through its Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. The Director General, All India Radio,
Sansad Marg, New Delhi.
3. The Director General, Doordarshan Directorate,
Copper Nicus Marg, Mandi House,
New Delhi.

... Respondents

By Adv : Shri J N Sharma

O R D E R

Hon'ble Mrs. Meera Chhibber, JM.

By this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for a direction to the respondents to provide seniority benefit for the post of Programme Executive with effect from 11.6.1991 on the basis of earlier select list and further other admissible benefits regarding fixation of pay in the scale of Rs. 2000-3500 now revised as Rs. 7500-12050 with all other service benefits. He has further sought any other order which may be deemed fit and proper in the circumstances of the case.



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2. It is submitted by the applicant that he was initially promoted as Programme Executive vide order dated 11.6.1991 (pg 16 to 26), whereby as many as 97 persons were promoted and the applicant's name figured at sl no. 90. It is submitted by the learned counsel for the applicant that even though his name appeared at sl no. 90, ~~but~~ he was not given any place of posting and he was informed that there was no vacant post available. Thereafter, the applicant was posted as Programme Executive, at Sasaram vide order dated 29.3.1993 (pg 44), but at this stage, the applicant submitted a representation dated 29.3.1993 to the authorities requesting them to post him at Doordarshan Kendra, Gorakhpur ~~for~~ nearby Doordarshan Kendra and if it is not feasible then he may be given four months extension for joining at Sasaram. This letter has been annexed as annexure 2 with the rejoinder affidavit. It was on his representation that the respondents vide their order dated 30.4.1993 kept his promotion order in abeyance till receipt of Director General's final decision on his representation.

3. The grievance of the applicant is that even though he had only requested for four months extension which was neither rejected nor he was asked to report at the same very station, yet by the subsequent order dated 23.12.1994 he was given adhoc promotion as Programme Executive (pg 48). The applicant being aggrieved, ^{had} given ~~the~~ representation to the respondents that since he had been promoted by a regular order in the year 1991 itself, his seniority and other benefits must be reckoned from the same date. The request of the applicant was considered by the respondents, but the same was rejected vide order dated 31.7.1995 (pg 59). However, the applicant kept on giving representations thereafter, also and in the year 1998 vide OM dated 28.4.1998 the order passed on 31.7.1995



.....3/-

was reiterated. The applicant has filed the present O.A. on 25.8.1999 claiming the relief mentioned in para 1 above.

4. The respondents have opposed the maintainability of the O.A. itself on the ground that the present OA is barred by limitation as cause of action, if any, arose in favour of the applicant in the year 1991 or latest in the year 1995 when his request was considered and rejected and since the applicant had not approached the Tribunal within one year from the date of cause of action, the present OA is not maintainable especially when he has not even bothered to file delay condonation application under section 21 of the A.T. Act, 1985. He has also relied on the judgment of Hon'ble Supreme Court in case of *Ramesh Chandra Sharma etc vs William Singh* reported in 2000 (2) ATSLJ S.C pg 89 and 1999 (11) ATSLJ S.C pg 110. He has also submitted that repeated representations do not extend the period of limitation and since he kept on repeating the representations, the reply given to him in the year 1998 cannot be said to be a fresh cause of action for filing present OA. On merits of the case, the respondents counsel submitted that he was promoted in the year 1991 on temporary basis and one gets entitled to the wages of the promoted post only after joining the post in the higher grade and seniority also reckoned from the date when one assumes the charge of the higher post. It is submitted by him that since the applicant neither joined the post in 1991 nor filed any case at that relevant time, on the contrary once he was given posting in the year 1993, he himself requested for extension of time to join the post. Therefore, his request that he be given seniority w.e.f. 1991 is totally untenable in the eyes of law. It is submitted by the respondents that the panel which was declared in the year 1991 was valid for three years and became inoperative in June 1994, whereas the applicant was given posting in the year 1993, but he did not join the next posting given to him on

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his own request for extention of time. In the meantime the said panel came to an end by a ^{efflux B} ~~term~~ of time. Thereafter, the persons who are promoted by fresh D.P.C. ~~and the persons~~ including the applicant were given adhoc promotion in the year 1994. The applicant had made his representation against that, which was duly considred and rejected in the year 1995. They have thus submitted that there is no ^{merit B} ~~material~~ in the case and the OA is liable to be dismissed.

5. Heard learned counsel for the parties, considred their submissions and perused records.

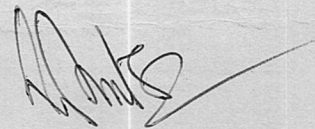
6. Admittedly, as per applicant's own case he was promoted in the year 1991, but not given the posting at that relevant time. It goes without saying if the applicant had not been given posting ~~he should have~~ approached the Court at that relevant time, ~~in~~ case the persons junior to him were given posting ignoring him. No such efforts was made by the applicant. However, even in the year 1993, when the applicant was given posting in the promoted post, he himself gave in writing that he should be given extention of four months time to join in the promoted post, meaning thereby that he did not join the promotional post on his own. Therefore, he cannot now ^{turn} ~~turn~~ around and blame the respondents for not giving him the posting earlier. Thereafter, the applicant was given adhoc promotion in the year 1994 once again. If he was aggrieved, he should have approached the Court immediately after his representation was rejected in the year 1995 ~~and~~ ^{but} ~~he~~ kept on giving representation one after another. Law is well settled that period of limitation starts counting from the date when the cause of action arose or when the representation is finally decided by the authorities. In the instant case the applicant ^{had B} ~~himself~~ annexed the order dated 31.7.1995 (pg 59)

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by which his representation was rejected. Therefore, he ought to have filed the OA within one ^{year} ~~year~~ from that date, but nothing of that sort was done by him. The second order that is ^{passed} in the year 1998 is nothing else but reiteration of the earlier order passed in 1995. Moreover, it was not an order passed ^{by} ~~by~~ Statutory Appeal. Therefore, in our opinion, this case would be fully covered by the judgment in the case of S.S. Rathor. Since his representation was rejected in the year 1995 itself, the OA is clearly barred by period of limitation. The applicant has not filed any application for condonation of delay as held by Hon'ble Supreme Court in case of Ramesh Chandra Sharma Vs. Udham Singh Kamal, 2002 ECC (L&S) 53. We cannot even entertain the present O.A.. The Hon'ble Supreme Court has held that in case ^{where} the applicant had not even prayed for condonation of delay, the Tribunal cannot interfere in a limitation barred matter. The OA is ^{thus} ^{is} liable to be dismissed on this ground itself. Even on merit, the law is well settled that seniority can be reckoned only from the date when the person takes charge of the promotional post i.e. the date when he takes birth in the grade, but in the instant case since the applicant never took over the charge of the promotional post in the year 1991, definitely, his case that he should be given seniority from the year 1991 and wages in promotional post also from 1991 is totally misconceived and not sustainable in law. The OA is dismissed accordingly with no order as to costs.



Member J



Member A

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