

CORAM : Hon'ble Mr.P.H. Trivedi : Vice Chairman
Hon'ble Mr.P.M. Joshi : Judicial Member

13/02/1989

Heard Mr.P.K.Jani and Mr.J.D. Ajmera the learned counsel for the petitioner and the respondents respectively. The petitioner has not set out in his application in clear terms with effect from which date he claims the relief regarding the promotion which was denied to him or any particular order of promotion over which he impugns. The petition has not been made until in September 1987 in which he wants the relief of being regarded as a member of the Scheduled Caste community from 27.7.1977 and in terms of promotion which seems to have been denied to him earlier sometime from 1977 due to hurdles of limitation. It is debarred under Section 21 of the Administrative Tribunals Act 1985, from exercising the jurisdiction regarding causes which have arisen prior to 1982 as it is clear in this case. The learned advocate for the respondents has forcefully contended that these hurdles of limitation can not be got over so far as this forum is concerned.

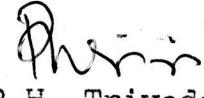
The petitioner on the other hand has made repeated representations in 1979 to various authorities and diligently pursued the same repeatedly by reminding them but the same was not taken up to court prior to this application. The petitioner can not be allowed to artificially have kept his cause alive by his representation and mainly on the basis of the order in 1987 of the rejection thereof to claim that his cause ~~can be~~ ^{arise} only on such rejection when the relief he claims is clearly prior to 1982. Therefore, we find that the hurdle of limitation remains in this case. The respondents cannot claim that they have done all that they should have done in disposing of the representations of the petitioner. The second difficulty

arises because since 1979 many persons have been promoted who are not before this court as parties. The petitioner in terms of the facts sought that the petitioner being given regular promotion in 1982 and according to the petitioner he was entitled for promotion in 1979 but as it might involve shifting from Ahmedabad and he has refused the same. In the speaking order that attaches to the petitioner, such circumstances can be regarded as valid until the refusal of the petitioner failed or not preceded in order of promotion in this regard. The petitioner cannot initiate on the hypocrisy of the department. The petitioner has contended that he refused his promotion not on the ground that he would not like to shift outside a station like Ahmedabad but he claims promotion on the basis of his being a Scheduled Caste member and the vacancy of which he should be promoted is a regular one.

As stated earlier we do not find any justification or any jurisdiction possibly on account of the hurdles of the limitation. The facts of the case however would warrant the same observations which the respondents authorities should keep in mind. The fact that the petitioner made representations which are admittedly not replied and which the petitioner has diligently pursued justify that the respondents be disposing of the representations of facts regarding his claim to be appointed to a regular vacancy in the regular post and subject to the validity of the case of merits and eligibility as also he being a member of Scheduled Caste community to the vacancies reserved for it between the period of 1979-82, if any

vacancies have been made available. While there is no justification for disturbing those who were his juniors are depriving them in any manner of their emoluments are affecting them as adversely as the petitioner has requested in the situation for a considerable period. There may be some basis for the petitioner's plea to be considered that his seniority for the purpose of future benefit regarding retirement benefits be considered by giving him appropriate benefits relating thereto.

The respondent authorities may not feel any hesitation in giving relief to the petitioner to the extent stated above for considering the claim of the petitioner and also after considering the case of others who is likely to be affected by their directions in this regard. With this observations and directions the case is disposed of.


(P.H. Trivedi)
Vice Chairman


(P.M. Joshi)
Judicial Member

Review Appln.
No. 9/89
in
OA/642/87

(A)

Coram : Hon'ble Mr. P.H.Trivedi
Hon'ble Mr. P.M.Joshi

: Vice Chairman
: Judicial Member

6/9/1989

Heard the petitioner party-in-person. The petition does not disclose any ground for review but on hearing the petitioner and on asking him what is the ground of review it has been stated that the petitioner only wants clarification regarding the respondents deciding his case in terms of our direction and ~~doing so~~ with reference to Misc.Application ^{as} from which he is to be declared belonging to Scheduled Caste.

On perusal of the judgment it is clear that we have refrained from making any observations far less from giving any direction to the respondents regarding the status of the petitioner being declared in favour of his belonging to scheduled caste. The directions only pointed out that the respondent should not feel any hesitation in giving relief to the petitioner to the extent stated in the judgment for considering the claim of the petitioner as well as ~~base~~ of others who are likely to be affected by it. The petitioner therefore may approach the respondent authorities in terms of the judgment for an appropriate decision. No clarification is required beyond ~~as~~ ^{what is} stated in the judgment. With these observations, the petition is found to have no merit and is rejected.

P.H.Trivedi

(P.H.Trivedi)
Vice Chairman

Joshi
(P.M.Joshi)
Judicial Member