

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. OA 680 of 96

Date of order : 9.2.2004

Present : Hon'ble Mr.N.Prusty, Judicial Member

Hon'ble Mr.N.D.Dayal, Administrative Member

ABHAYAPADA CHATTERJEE

VS

UNION OF INDIA & ORS.

For the applicant : Mr.B.C.Sinha, counsel

For the respondents: Mr.S.Choudhury, counsel

O R D E R

N.Prusty, J.M.

The applicant who was earlier working as O.S.Grade I in the Security Department, Shalimar under the S.E.Rly. and retired in the meantime, has filed the present application for the following reliefs :

- a) to direct the respondents to re-fix the pay, seniority etc. in the post of Head Clerk in respect to his junior and grant all other consequential benefits including the benefits in the higher grade promotional posts and retiral benefits.
- b) to direct the respondents to grant arrears of pay and allowances consequent on the said re-fixation of pay.
- c) cost of the suit and any other order(s) as the Hon'ble Tribunal deems fit and proper.

2. As such the main prayer of the applicant is for refixation of his pay, seniority, etc. in the post of Head Clerk in respect to his junior and for grant of all consequential benefits.

3. Heard Mr.B.C.Sinha, 1d. counsel appearing on behalf of the applicant and Mr.S.Choudhury, 1d. counsel appearing on behalf of the official respondents.

4. During the course of hearing 1d. counsel for the official respondents drew our attention to the averments made by the applicant at paragraph 4.11 of this application. It has been categorically stated by the applicant therein that :

"C.S.O. considered his case and order for his promotion vide CSO's letter dated 29.11.68 from which it will be seen that the promotion was ordered on the basis of his earlier suitability test conducted in the year 1957 and

he was not subjected to any fresh or further test. The promotion was given effect from 6.1.69 AN with an amended order of the CSO posting him in S.O.'s office in place of CSO's office."

5. Mr.Choudhury, 1d. counsel for the official respondents submits that in view of the above specific statement of the applicant, this OA having been filed in the year 1996 challenging the action of the official respondents of the year 1968 and 1969 and keeping in view the fact that the applicant had already got promotion w.e.f. 6.1.69, accepted the same and continued in his promotional post, never challenged the same prior to filing of this application, the present application is hopelessly barred by limitation.

6. With regard to the above averments made by the applicant at paragraph 4.11 of the OA, as stated above, the official respondents at paragraph 5 of their reply stated that :

"the applicant appeared in the suitability test for promotion to the grade of Rs.160-250/- and was successful in the written test but the suitability test contains two parts i.e. (i) Written Test & (ii) Service Records. Though the applicant passed in the written test but the Selection Committee on going through the Service Record, did not find him suitable for promotion to Head Clerk in Grade of Rs.160-280/-."

The respondents further at paragraph 7 of their reply have stated that::

"he (the applicant) was not promoted in the year 1969 on the basis of written test which was held in the year 1957, rather the applicant got promotion in the year 1969 through fresh selection, which was confined to the examination of records only and in the suitability test the applicant came out successfully and got promotion of Head Clerk w.e.f. 6.1.69."

7. In view of the above Mr.Choudhury, 1d. counsel for the official respondents categorically submitted that the applicant was promoted to the post of Head Clerk in the year 1969, he accepted the promotion w.e.f. that date, never raised any objection to the same, nor approached any forum for redressal of his grievance in accordance with law within the statutory period of limitation and as such at this belated stage, filing such application, as has been

done by the applicant before the Tribunal for his grievance/cause of action which arose in the year 1957/1967/1969, should not be entertained and rejected in limine with costs.

8. After going through the statements made by the applicant in this OA, documents filed and relied upon by him in this application and also after going through the objections raised by the respondents in their reply as well as at the time of hearing of this case, we are not inclined to entertain this application and open a case which has already been closed since 1969 in all respects at this belated stage.

9. The OA is accordingly dismissed both on the ground of limitation as well as on merits. However, there shall not be any order as to costs.



MEMBER(A)



MEMBER(J)

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