

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 97 of 1996.

Present : Hon'ble Dr. B.C.Sarma, Administrative Member.

Hon'ble Mr. Paritosh Dutta, Judicial Member.

BANKIM SINHA & ORS

VS.

UNION OF INDIA & ORS.

For applicants : Mr. S.K.Dutta, Counsel.
Mr. T.K.Biswas, Counsel.

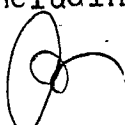
For respondents : Mr. B.K.Chatterjee, Counsel.

Heard on : 1.3.96 :: Ordered on : 1.3.96.

ORDER


B.C.Sarma, AM

This application has been filed jointly by the eleven applicants raising dispute about the denial of benefits of upgradation of posts of Borer 'B' to Borer High Skilled Gr.II with effect from 16.10.81 in the scale of 330-480/-. All the applicants ^{but one} are working as Borer Highly Skilled Gr.II at Gun & Shell Factory, Cossipore, Calcutta while applicant No.2 is a retired Borer Highly Skilled Gr.II. The applicants contend that initially there were two categories of Borers as per classification in Ordnance Factories Organization, namely Borer and Jigborer. Their grievance is that while Jigborers have been given the benefit of Highly Skilled post with effect from 1981, that has been denied to them and being aggrieved thereby, the instant application has been filed with the prayer that a declaration be issued to the effect that Borer 'B' is entitled to be treated as Highly Skilled Gr.II with effect from 16.10.81 like Jigborer and direction be issued on the respondents to grant the benefit for upgradation to the Borer-B of the same factory including the applicants as Highly Skilled Gr.II in the scale of Rs.330-480/- with effect from 16.10.81 and further directing the respondents to grant the applicants all consequential benefits including refixation of pay, seniority etc.



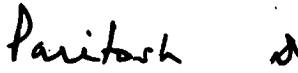
2. Mr. B.K.Chatterjee, ld. counsel, appears on behalf of the respondents and strongly opposes the application. He submits that the matter regarding classification and also upgradation was examined already through the Expert Committee and also through the Central Pay Commission. Mr. Chatterjee further submits that one of the applicants had already retired and the applicants were given promotion in the year 1987 and all of them had been accepted the promotion, but they have come to this Tribunal only on 19.1.96. The application is hopelessly barred by limitation. He further submits that there has been no explanation whatsoever regarding the delay committed by the applicants in approaching the Tribunal in the matter.


3. We have heard the submissions of both the parties and perused records and also considered the facts and circumstances of the case. In view of the submission made by the applicants and also by Mr. Chatterjee, we are of the view that the application can be adjudicated on the basis of the available records without obtaining any reply from the respondents. We note that the applicants were promoted in the year 1987 and they had also accepted the promotion, ^{but} at that time they did not raise any grievance about giving the benefit of upgradation with effect from 16.10.81. The said promotion was given to the applicants following the recommendation of the Expert Committee. There is no information whatsoever before us to the effect that applicant had ever represented at any time about their grievance. However, Mr. S.K.Dutta, ld. counsel, appearing for the applicants submits that their Union took up the matter with the authorities concerned. We would like to observe here that a representation made by the Union cannot be termed as the representation of the applicants. Union may move ^{from} some different angle to approach the administration for redressal of grievances of its members, but the fact remains that the applicants have not made any representation till this date. There is no explanation forthcoming before us as to why they have made delay ^{of} about nine years approximately in the matter of coming before this Tribunal. It is also pertinent to



mention that the report of the Fourth Central Pay Commission was implemented by the Govt. of India with effect from 1.1.86 and the report of the Fifth Central Pay Commission is also expected to be submitted within this calendar year. Apart from the delay involved in this application, we find that applicants' prayer is concerned about the job evolution and upgradation of posts. In this connection, the observation of Hon'ble Apex Court made in the case of Secretary, Finance Deptt. & Ors. Vs. West Bengal Registration Service Association & Ors., reported in 1993(24) ATC 203 is relevant. Their Lordships observed that Court's interference with the complex matters involving job evaluation, equation of posts and salaries, reduction of number of pay scales which require consideration of various factors, not ordinarily called for, unless there is unjust treatment by arbitrary State action or inaction. The fixation of pay, implementation of the recommendation of Pay Commission's report or otherwise is a matter ^{which} falls within the domain of the executive. We find that the decisions were taken by the respondents after getting the matter adequately examined by the different expert committees. If the applicants were aggrieved by the decisions taken, they should have approached the judicial forum in time, but when they did not do so, they cannot be permitted to raise the dispute after long nine years. On this ground alone the matter is liable to be rejected.

4. In view of the above discussions, we do not find any merit in this application. We further hold that the application is hopelessly barred by limitation. Accordingly, it is ordered that the application be dismissed without passing any order as regards costs.


(Paritosh Dutta)
MEMBER (J)


(B.C. Sarma)
MEMBER (A)