

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.111 of 1996

Present : Hon'ble Mr. S. Biswas, Administrative Member
Hon'ble Mr. A. Sathath Khan, Judicial Member

Gopal Chandra Sarkar, S/o Late Pyari
Mohan Sarkar, residing at Kalyan Gram,
P.O. Bengal Enamel, P.S. Neapara, Dist.
North 24-Parganas

... Applicant

VS

1. Union of India, through the Secretary
Ministry of Defence, Govt. of India,
New Delhi, South Block

2. Chairman, Ordnance Factory Board,
10-A, Auckland Road, Calcutta-1

3. General Manager, Metal & Steel Factory,
Ishapore, P.O. Ishapore-Nawabganj, Dist.
North 24-Parganas

4. Sunil Kumar Mazumdar, working as
U.D.C. at Labour Office, Metal & Steel
Factory, Ishapore, Dist. North 24 Parganas

... Respondents

For the Applicant : Mr.N. Ghosh, counsel

For the Respondents : Mrs. U. Sanyal, counsel

Mr. B. K. Chatterjee, counsel

: : Date of order: 08 -01-2003

O R D E R

A. Sathath Khan, JM

The applicant has approached this Tribunal to set aside the impugned orders dated 19.3.89 and 6.6.95 being Annexure 'C' and 'C1' to the OA and for consequential benefits.

2. The case of the applicant is that he was appointed as LDC on 25.4.80, that he was placed under suspension with effect from 9.6.80 on account of some criminal proceeding, that the said criminal proceeding ended in acquittal by order dated 7.8.86 of the learned Magistrate, 2nd Court, Barrackpore, 24-Parganas, that his suspension order was revoked by order dated 9.9.86 and he was reinstated in service, that he was promoted as UDC with effect from 1.12.88, ^{that} ~~yet~~ his suspension period was treated as on duty

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for the purpose of pay and allowances, that inspite of his reinstatement pursuant to the order of acquittal and the order treating his suspension as on duty he is getting less pay than his junior and his junior has superseded him, that he made a representation dated 13.2.89 ^{for his seniority} ~~in this regard~~, that the third respondent by his order dated 19.3.89 rejected his request, that his further representations dated 29.9.94, 5.12.94 and 17.2.95 for the same relief were also rejected by the third respondent by order dated 6/7.6.95 and that the action of the respondents in not giving him protection of pay is arbitrary and illegal. Under these circumstances, the applicant prays for the reliefs stated above.

3. The respondents in their reply have submitted that the applicant made his representation stating his grievance on 13.2.89 which was rejected by the respondents on 19.3.89, that the applicant made subsequent representation on the same issue on 28.9.94 which was also rejected by the third respondent on 6/7.6.95, that the applicant has approached this Tribunal after the period prescribed for approaching this Tribunal, that the applicant was suspended on the ground of criminal case when the applicant had just completed 24 days of his service, that though the applicant was reinstated in service after the criminal case ended in his favour, he could not be considered for promotion before completing his probation period, that after he completed his probation period he was considered and promoted as UDC, that the action of the respondents is in order in the facts and circumstances stated above and that there are no merits in the above OA. Hence the respondents prayed for the dismissal of the above OA.

4. We have heard the learned counsel for both sides and we have also perused the pleadings and the records made available to us.

5. The short point for consideration is this, ^{case is} whether the

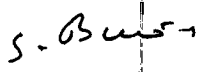
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applicant is entitled to approach this Tribunal after the period of limitation and whether the applicant is entitled to any relief claimed by him. It is no doubt true that the applicant was reinstated in service after the criminal case against the applicant ended in acquittal, but it is pertinent to note that the applicant had not completed his probationary period in view of the suspension on account of criminal case pending against him. It is not disputed that the applicant made a representation on 13.2.89 regarding his notional seniority, but the same was rejected as early as on 19.3.89. If at all the applicant was aggrieved by the said order of rejection, he ought to have approached this Tribunal within one year from the date of rejection. On the contrary, the applicant chose to submit further representations dated 29.9.94, 5.12.94 and 17.2.95 for the same relief and the said representations were also rejected by order dated 6/7.6.95. It is settled law that once a final order is passed by the competent authority, any number of further representations on the same issue cannot revive the cause of action. Hence we are of the view that the applicant should have approached this Tribunal within one year from 19.3.89 which he failed to do. Under this circumstance, we hold that the above OA is clearly barred by limitation.

6. In the result the OA is dismissed as indicated above with no order as to costs.


(A. Sathath Khan)

MEMBER (J)


(S. Biswas)

MEMBER (A)