

I/7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of Order : 30.01.2003

O.A. No. 334/2001

with

M.A. No. 199/2001

B. L. Samar son of Shri Late Lal Chand, aged about 53 years, resident of Opposite Power House, Fatehnagar, Distt. Udaipur, at present employed on the post of HSG-II, in the office of Head Post Office, Udaipur.

... APPLICANT.

versus

1. Union of India through Secretary to Government of India Ministry of Communication, Department of Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Member (Personnel), Postal Board, O/O Director General Posts, New Delhi.
4. Shri S. L. Parashar HSG-II, S P M Dariba Distt- Rajasmand (Raj).

... RESPONDENTS.

Mr. B. Khan counsel for the applicant.
Mr. Vinit Mathur counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :

(per Hon'ble Mr. A. P. Nagrath)

This application has been filed against not granting promotion in the pay scale of Rs. 1600-2660 under BCR Scheme to the applicant w.e.f. 04.05.1992

from which date admittedly his next junior Shri S. L. Parashar has been so promoted. The applicant has been granted the benefit of this promotion only w.e.f. 01.07.1994 on completion of 26 years of service while Shri S. L. Parashar had completed that requisite length of service in the year 1992.

2. The applicant has filed an MA for condonation of delay as the order impugned in the OA is Annexure A-1 dated 05.01.1999. Applicant's plea in the MA is that the cause of action arose on this date i.e. 05.01.1999 when his claim for promotion was rejected by the second respondent. It is stated that he submitted a statutory petition to the 3rd respondent vide petition dated 15.01.1999 but the same is still pending. The applicant's contention is that reckoned from this date of 15.01.1999, he ought to have filed this OA by 15.07.2000. Accordingly there is a delay of about one year and four months. For explaining the delay, the applicant has stated that he had been waiting all this while for disposal of his petition.

3. The respondents have opposed the prayer of the applicant for condonation of delay but the grounds taken by them are rather vague and have been stated in general terms. Plea of the respondents is that no bonafide reasons have been disclosed for approaching the Tribunal so late.

4. We have heard the learned counsel for the parties.

5. The relevant facts stated are that the next junior to the applicant Shri S. L. Parashar was granted the benefit of promotion under BCR Scheme vide order dated 4.5.1992. On that date, the applicant had not completed the prescribed length of service i.e. 26 years, which is necessary for promotion under BCR Scheme. However, later by circular dated 8.2.1996, Government of India, Ministry of Communications, decided that all officials such as UDCs in the Circle Office and LSG (Both 1/3rd and 2/3rd) etc. whose seniority were adversely affected by implementation of BCR Scheme, placing their juniors in the next higher scale of pay, will now be considered for next higher scale of pay from the date their immediate juniors became eligible for the next higher scale. Prior to receipt of these instructions, applicant had moved this Tribunal by filing OA No. 533/95, the same was dismissed as withdrawn by order dated 15.11.1996 by observing that the case of the applicant had been considered but he was found unfit under the BCR Scheme. While dismissing the application liberty was granted to the applicant to file a fresh application subject to admissibility/limitation. (emphasis supplied). We find from the records that the applicant's case had been considered but he was not considered suitable to be granted the benefit under the modified scheme in pursuance of the instructions contained in letter dated 08.02.1996. He was advised of this by letter dated 13.8.96.

6. Having regard to the facts of this case as stated above, it is apparent that cause of action arose in this case on 13.08.1996 when the applicant was informed that he could not find a place in the select panel drawn by

DPC for promotion to next higher grade under modified scheme of BCR. There is hardly any substance in the ground now taken by the applicant that the period of limitation should count from 05.01.1999 when his representation has been rejected. Mere rejection of a representation submitted belatedly after cause of action actually arose does not extend the period of limitation. Learned counsel for the applicant vehemently argued that after rejection of his representation vide letter dated 05.01.1999, the applicant submitted a petition to the Member (Personnel) on 15.01.1999 and he has been informed vide letter dated 09.07.2001 that the said petition is under consideration. Submission of such a representation which is not provided under the statutory rules can also not help the case of the applicant. The facts are clear that cause of action arose only on 13.08.1996 when he was informed about his non-placement in the next higher grade under BCR Scheme due to unsatisfactory record of service. The applicant failed to seek a legal remedy available to him within time prescribed under Section 2 of the Administrative Tribunals Act, 1985. He cannot be permitted to circumvent the law by submitting belated representation and the disposal thereof. The legal position on this aspect stands clearly established by various pronouncements of the Apex Court.

7. The applicant has failed to make out any case for condonation of delay in filing this OA and, therefor, we reject the prayer made in the MA.

8. Since the prayer of the applicant for condonation of delay has been rejected, the OA stands dismissed on grounds of limitation. No costs.

M.P.S

(A. P. NAGRATH)
Member (A)



(G. L. GUPTA)
Vice Chairman