

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.1154 of 1997

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

Hon'ble Mr.D.Purkayastha, Judicial Member.

NAZIR SUNDI s/o
Late Turi Sundi, residing
at Belvedere Estate,
Qtr. No.98, Type IV,
Alipore, Calcutta, working
in the National Atlas and
Thematic Mapping Organisa-
tion, 3, MSO Building,
DF Block, 7th Floor, Salt
Lake City, Calcutta-64.

... Applicant
Vs.

1. Union of India through the Secretary, Department of Science and Technology, New Mehrauli Marg, New Delhi.
2. The Director, National Atlas and Thematic Mapping Organisation, 3, MSO Building, D.F. Block, 7th Floor, Salt Lake City, Calcutta-64.
3. Shri A.K.Dasgupta, Office of the National Atlas and Thematic Mapping Organisation, 3, MSO Building, DF Block, 7th Floor, Salt Lake City, Calcutta-64.
4. Shri S.K.Biswas, Office of the National Atlas and Thematic Mapping Organisation, 3, MSO Building, DF Block, 7th Floor, Salt Lake City, Calcutta-64.

... Respondents

For the applicant : Mr.M.P.Rai, counsel.

For the respondents: Mr.Madhusudan Banerjee, counsel.

Heard on : 22.1.1998

Order on : 22.1.1998

ORDER

B.C.Sarma, A.M.

This application has been filed by the applicant raising the grievance about the office memo No:34-2/90 dated 16.12.1991



... 2/-

issued by the respondent no.2 herein in an arbitrary manner while fixing the seniority of the applicant below the seniority of respondent nos. 3 and 4. It is the specific contention of the applicant that in 1990 his seniority was fixed vis-a-vis others including the said 2 private respondents, but that position was disturbed by the impugned order dated 16.12.1991. The applicant made representation against the change of seniority made by the respondents by a letter dated 2.1.1992 but that did not elicit any favourable response from the respondents, as will be evident from the respondents letter dated 4.8.1992, as set out in annexure 'D' to the application. Being aggrieved, therefore, the instant application has been filed with a prayer that a direction be issued on the respondents to explain the reasons of refixing the seniority of the applicant in the post of Research Officer.

2. Mr. Madhusudan Banerjee, 1st Sr. Counsel opposed the application. He submits that the application is hopelessly barred by limitation. He submits that the representation filed by the applicant was duly considered and reply sent to him in 1992 and the applicant has filed this application in October, 1997. He, therefore, prays for dismissal of the application.

3. We have heard the submissions of the 1st. counsel for both the parties and perused the record.

4. We find that although the seniority of the applicant was fixed vis-a-vis others including the two private respondents as early as in 1990, but that position was modified by the impugned order passed in 1991. It appears from annexure 'D' that his representation was duly considered and the decision taken by the respondents was also conveyed to him by their memorandum dated 4th August, 1992, as set out at annexure 'D' to the application. We find that the same is a speaking order because reasons have been given under what circumstances seniority was fixed. We find further that the impugned order was passed in 1991 and the rejection of the representation filed by the applicant against the impugned order was done in August, 1992. The application has been filed only on 1.10.1997 i.e. after a lapse of more than 5 years. No reasons have been given by the applicant as

to why he could not file the application in time. Ld. counsel for the applicant has submitted that the applicant had got some assurance from the office and, therefore, he did not come up before the Tribunal. We are of the view that that is not a convincing reason for condonation of delay. In the case of Baliram Prasad vs. UOI & Ors. (1997 (2) SCC 292), the Hon'ble Apex Court has held that sufficient cause must be made out for making the application beyond the statutory period. In this case we find that there is no sufficient cause adduced by the applicant for making the application so late. In our view the claim made by the applicant is a stale claim and the application is barred by limitation.

4. We note from the said memorandum that while the applicant was appointed on 29.4.1980, the respondent no.4 was appointed on 21.4.1980 and, therefore, the respondent no.4 is senior. It is further noted that the said respondent is junior to the other private respondents, namely, respondent no.3 and, therefore, we are of the view that the matter has been correctly decided.

5. For all these reasons, we do not find any merit in the application and the application is dismissed at the stage of admission hearing itself, without passing any order as to costs.


(D. Purkayastha)
Judicial Member


(B.C. Sarma)
Administrative Member