

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 574 of 2000

Thursday, this the 20th day of June, 2002

CORAM

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.G. Atmaram Babu,
S/o Gopalan Nair,
Postal Assistant,
Edavilangu PO, Irinjalakuda,
residing at Kariyath House,
Alamthuruth, Vadakkekara PO, N.ParurApplicant

[By Advocate Mr. MR Rajendran Nair rep. by Mr. MR Hariraj]

Versus

1. The Chief Postmaster General,
Kerala Circle, Trivandrum.
2. Superintendent of Post Offices,
Irinjalakuda Division, Irinjalakuda.
3. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi.Respondents

[By Advocate Mr. T.A. Unnikrishnan, ACGSC]

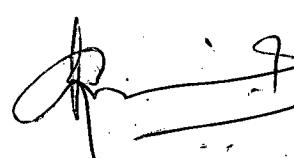
The application having been heard on 20-6-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

The applicant, aggrieved by A-1 order dated 2-11-1999
by which his A-4 representation for extending the benefits of
the order of this Tribunal in OA No.1853/92 has been rejected
by the 1st respondent, has filed this Original Application
seeking the following reliefs:-

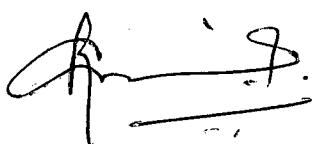
- "i. To quash Annexure A1.
- ii. To declare that the applicant is entitled to
all benefits as per the final order in OA
1853/92.



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- iii. To direct the respondents to grant notional appointment as Postal Assistant to the applicant with effect from 30.11.1983, the date of appointment of his juniors with all consequential benefits.
- iv. Grant such other reliefs as may be prayed for and the Court may deem fit to grant, and
- v. Grant the cost of this Original Application."

2. The applicant's case is that he and 4 others were selected for appointment as Postal Assistants in 1983. As they were not appointed as Postal Assistants, the 4 employees who were selected along with the applicant approached this Tribunal in OA No.1853/92. By A-2 order dated 9-11-1993 this Tribunal declared that the applicants therein were entitled to be appointed as Postal Assistants with effect from the date on which they had successfully completed the training and directed that implementation of the said direction could be made by the department notionally with all consequential benefits in accordance with law. Pursuant to the above direction the department implemented the said order of this Tribunal. Two of the 4 applicants, namely S/Sri P.N.Sukumaran and K.V.Thankappan, were juniors to the applicant herein. The applicant requested the 1st respondent to extend the benefits of the judgement to him. Aggrieved by the negative reply received by him from the 2nd respondent by A-3 letter dated 18-7-1996, the applicant filed A-4 representation dated 13-5-1999 to the 1st respondent. Not getting any reply, he filed OA No.801/99 before this Tribunal. By A-4 order dated 2-9-1999 this Tribunal directed the 1st respondent to consider and pass appropriate orders on A-4 representation. Pursuant to the direction contained in A-5 order, the 1st respondent issued A-1 order rejecting the request of the applicant. Hence, the applicant has filed this Original Application seeking the above reliefs.



3. Respondents filed reply statement resisting the claim of the applicant. According to them, the mere fact that the applicants in OA No.1853/92 were granted some reliefs in the year 1992 was not a ground for the applicant to seek the same reliefs. The applicant was appointed as Postal Assistant on 6-4-1988. The applicant had approached the Chief Postmaster General on 25-5-1996 to extend the benefits given to the applicants in OA No.1853/92, which was too belated. When three persons similarly situated approached this Tribunal through OA No.441/95, claiming the reliefs granted in OA No.1853/92, this Tribunal by R-1 order, dismissed the said OA. Hence, the same was rejected by A-1 order. A-1 order was a speaking order and was correct and legal.

4. Heard the learned counsel for the parties.

5. Learned counsel for the applicant, Sri M.R. Hariraj, submitted that the non-extension of the benefits granted to the juniors of the applicants was arbitrary, unjust and illegal. In A-1 order, the 1st respondent had refused to extend the benefit of the order in OA No.1853/92 relying on R-1 order of this Tribunal dated 17-7-1996 in OA No.441/95. He submitted that the said reliance was misplaced. Law of limitation would not apply to administrative decisions unless there is a statutory prohibition for considering the benefits beyond a specified time. Further, the principle which is laid down in the judgement was the one to be seen by the administrators and non-extension of the same to the similarly situated persons would be violative of the fundamental rights. By non-granting the benefits extended to the applicants in OA No.1853/92, the applicant is suffering recurring loss of emoluments and would suffer reduction in pension also. He submitted that these aspects, perhaps, had not been raised before this Tribunal

while the Tribunal was considering the OA No.441/95. Further, the question of limitation would not arise when this Tribunal was acting as supplementary to the High Court exercising the power under Article 226 of the Constitution in the matter of enforcement of fundamental rights.

6. Learned counsel for respondents submitted that on the basis of the facts in this case, this could not be treated as a case of recurring cause of action. The cause of action in this case was the promotion of the applicant in 1983 and that was not a recurring cause. It is only by virtue of appointment as Postal Assistant in 1983, the emoluments of the applicant would get increased and in that event only the recurring cause of action of loss of monthly emoluments and reduction in monthly pension etc. would arise giving a recurring cause of action.

7. We have given careful consideration to the submissions made by the learned counsel for the parties, the rival pleadings and have perused the documents brought on record.

8. We find that subsequent to the order of this Tribunal in OA No.1853/92, three persons similarly situated to that of the applicant had approached this Tribunal in OA No.441/95 for claiming the same relief as was granted to the applicants in OA No.1853/92. This Tribunal by R-1 order dated 17-7-1996 rejected the said claim. R-1 order reads as under:-

"Applicants three in number, seek a declaration that they are entitled to be promoted as Postal Assistants with effect from 1.9.1984. Consequential reliefs are also sought.

2. Applicants asserted their claims for the first time only in 1994. The inspiration for advancing such claims, was an order of this Tribunal in O.A. 1853/92 granting such benefits to some other employees. The gain of some, cannot constitute a cause of action for some others. That is the law declared by the Supreme Court in Bhoop Singh vs. Union of India and others



(AIR 1992 SC 1414). The Supreme Court has repeatedly cautioned against grant of belated claims draining large sums from public revenue. [Secretary to Government of India and others vs. Shivram Mahadu Gaikwad (1995 SCC L&S 1148), State of Maharashtra vs. Digambar (1995 4 SCC 683) and State of Orissa vs. Dhobei Sethi and another (1995 5 SCC 583)]. Long delay extinguishes not only remedies, but rights also. Following these decisions we find no justification for reviving long lost causes making an impact on public funds.

3. Application is dismissed but without costs."

9. We find from the above order that the main ground on which this Tribunal had rejected the claim of the applicants in OA No.441/95 was that "The gain of some, cannot constitute a cause of action for some others". The Tribunal had also referred to certain judgements of the Hon'ble Supreme Court in support of their dictum for finding no justification for reviving the long lost causes. There is no dispute that the applicant's case is exactly identical to the one of the three applicants in OA No.441/95. If the applicant's claim at this stage is acceded to, he would become a Postal Assistant from 1993 which would affect the seniority and other benefits of all the people who had been appointed as Postal Assistants subsequent to him. In that view of the matter, the applicant's case, if allowed, will result in a cause of action to others. When this Tribunal had held and dismissed the claim of the applicants who had approached this Tribunal in 1995, the applicant who is approaching this Tribunal in 2000 which is at a later point of time than 1995 can never revive the cause. Thus, we are of the view that following the order of this Tribunal in OA No.441/95, this Original Application is liable to be dismissed only.

10. As regards the submissions of the learned counsel for the applicant that this is a case of recurring cause of action, we are unable to agree with him. The cause of action of recurring loss of emoluments would arise only if the applicant

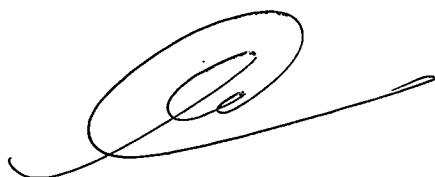


becomes entitled for the emoluments. He would be entitled to get the emoluments only if he has a legal claim to be promoted in 1983. His non-promotion occurred in 1983 and therefore, his cause of action occurred in 1983 and that cause of action is not a recurring one. So, we reject this ground advanced by the applicant for distinguishing the order of this Tribunal in OA No.441/95.

11. In the result, we are of the considered view that the applicant in this Original Application is not entitled for the reliefs sought for and this Original Application is only to be dismissed.

12. Accordingly, we dismiss this Original Application with no order as to costs.

Thursday, this the 20th day of June, 2002



K.V. SACHIDANANDAN
JUDICIAL MEMBER



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

APPENDIX

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Applicant's Annexures:

1. A-1 : True copy of the order No.CC/2-112/99 dated 2.11.1999 issued by the 1st respondent.
2. A-2 : True copy of the final order dated 9.11.1993 in OA 1853/92 of this Hon'ble Tribunal.
3. A-3 : True copy of the letter No.B/Petition/01/95 dated 18.7.96 issued by the 2nd respondent.
4. A-4 : True copy of the representation dated 13.5.99 submitted by the applicant to the 1st respondent.
5. A-5 : True copy of the order dated 2.9.99 in OA 801/99 of this Hon'ble Tribunal.

Respondents' Annexures:

1. R-1 : True copy of the order dated 17.7.96 in OA 441/95 of this Tribunal.

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