

24

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the 1<sup>st</sup> day of Sept., 97.

O.A. No.614 of 1992

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. V.K. SETH, MEMBER(A)

Dr. Shailendra Mehra son of late Sri S.S. Mehra, presently posted as Geologist (Senior), Stratigraphy Division, G.S.I., N.R. Lucknow.

Applicant

By Advocate Shri P.K. Srivastava

/ versus

1. Union of India through its Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.
2. Director General, G.S.I. 27, Jawahar Lal Nehru Road Calcutta-16.
3. Secretary, U.P.S.C., Shahjahan Road, New Delhi.

Respondents.

By Advocate Shri Sunil Sharma.

O R D E R

HON. MR. V.K. SETH, MEMBER(A)

Vide this O.A. the applicant has sought directions to the respondents to correct the gradation list of Geologist Senior circulated on 21.11.90 considering the appointments made, as a result of earlier selections to those as a result of subsequent selection of 1970 and 1971. He has also claimed consequential benefits from the date his junior was promoted to the post of Director Geology.

2. The respondents have contested the claim of the applicant and pleadings have been exchanged between the two sides. We have also taken note of the submissions of the learned counsel for the two sides.

3. The applicant was issued offer of appointment to the post of Geologist Junior on the basis of Geologist Examination held in August, 1969, vide letter dated 26.4.1972 from the office of Director General G.S.I. Calcutta. The letter interalia mentioned that he (the applicant) did not produce his M.Sc. Degree before U.P.S.C. at the time of Examination. The enclosures with the said offer of appointment indicated the terms and conditions of appointment. Item 6 in the enclosure (added in hand) mentioned that his relative seniority will be placed below the candidates already appointed or recommended for appointment to the grade of Geologist Junior. As per the averments in the O.A., the applicant submitted representation on 26.9.72 for fixation of seniority on the basis of his having been selected through the Examination of 1969 vis-a-vis those selected through U.P.S.C Examination of 1970 and 1971. He sent further representations and reminders in September 1972, March, 73 and July, 74. It is also stated that he represented again on 17.9.77 against his position in the provisional gradation list of Geologist Junior published on 25.8.1977. Further representations are stated to have been made by him on 21.11.1990, 3.12.90 and 30.10.92. According to the applicant, as his grievance was not redressed, he came up with the present O.A.

4. Before we consider the merit of the claim of the applicant, we have also to consider the question of maintainability of the O.A. on other counts as well. The first issue that arises is the question of limitation. As per the provisions of section 21 of the Administrative Tribunals Act, the Tribunal

shall not admit application in connection with the grievance unless the application is made within one year from the date on which final order has been made. Though the applicant has not annexed any copy of the reply received from the respondents in regard to the claim preferred by the applicant for re-fixation of seniority, the respondents have annexed a copy of the letter dated 12.4.1973 addressed to the applicant on the subject with reference to his letter of 28.3.1973 which explains the circumstances because of which his position in the seniority was to be placed below the candidates who were recommended for appointment as Geologist Junior from the Geologist Examinations 1970-71. It is well settled that repeated representations do not result in extending the limitation period. As is apparent from the gist of facts indicated earlier, ~~because~~ the grievance of the applicant arose / as far back as in 1972 itself, when he was offered appointment as Geologist Junior, with the condition that his seniority will be fixed below the candidates already appointed or recommended. Further the applicant was clearly informed by the respondents of the circumstances leading to his lower seniority way back on 12.4.1973 itself. It was therefore, for the applicant to take up the matter for redressal of his grievance before the appropriate judicial forum soon thereafter. In this connection it would also be relevant to point out that section 21<sup>(2)</sup> of the A.T. Act, by corollary, bars entertainment of an application in respect of a grievance which arose more than 3 years immediately preceding the date of the setting up of this Tribunal, whereas in the present case the grievance of the applicant arose more than two decades of the coming into being of this Tribunal.

In view of this position, this O.A. is highly belated and clearly barred by limitation u/s 21 of A.T. Act.

5. Apart from the above, the entertainment of the present petition and allowing the claim of the applicant would also result in unsettling the position settled since long which this Tribunal would be most reluctant to do and rather refrain from.

6. A further preliminary objection is the non joinder of necessary or proper parties. The applicant is claiming seniority over those appointed as a result of the U.P.S.C. Examinations held in 1970 and 1971. However, none of such officers whose seniority and consequently the prospects of promotion etc. may be adversely affected in case the applicant's claim is allowed, have been arrayed as respondents. On this ground also therefore, this O.A. is liable to be rejected.

7. In the light of the foregoing, we do not consider it necessary to examine the merit of the claim of the applicant. The O.A. is hereby dismissed. No order as to costs.

V.S.  
MEMBER(A)

  
VICE CHAIRMAN

Lucknow; Dated: 1-9-97

Shakeel/