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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 716/87
~~KRXXXXXX~~

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DATE OF DECISION 8.11.1993

Dr. Madhu Kherdey.

Applicant(s)

Versus

Chairman, Postal Services Board & Anr. Respondent(s)

1. Whether it be referred to the Reporter or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

} No


(N.K. VERMA)
MEMBER

~~KRXXXXXX~~

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, CAMP AT NAGPUR.

O.A.716/37.

Dr. Madhu Kherdey.

.. Applicant.

V/s.

Chairman, Postal Services Board,
 New Delhi & Another.

.. Respondents.

Coram : Hon'ble Shri N.K. Verma, Member (Admn.)

Appearances:

1. Applicant in person.
2. Mr. M.G. Bhangade, Counsel
 for the Respondents.

ORAL JUDGMENT :

Dated : 8.11.1993,

§ Per : Hon'ble Shri N.K. Verma, Member (A) §

The applicant's case is that the Respondents issued an order dtd. 17.9.1980 under which the HSG I was to be treated as promotional post for the Assistant Supdt. of Post Offices who were to be given benefit of provisions of FR-22-C for assuming higher duties and responsibilities. These orders were to take effect from 29.8.1980, with the proviso that past cases should not be reopened. The applicant's case is that he was Assistant Superintendent of Post Offices in the Department of Posts promoted to the level of HSG-I between the period 3.7.1976 to 2.12.1976 and again for a short period of 2.12.1976 to 22.4.1977 during which time he was given pay of Assistant Supdt. of Post Office grade under FR-22-a(2) and not given the benefit of FR-22(C). He had taken up the matter with the Department after issuance of the impugned order dtd. 17.9.1980 and had agitated thereafter continuously. When no response was received from the Respondents, finally he filed this original application on 19.10.1987 in the Tribunal.

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2. The applicants main contention is that the impugned order should have retrospective effect as he was performing same duties and functions which an A.S.P. promoted to HSG-I performed after impugned order was issued. He has thus become victim of discrimination and this situation needs rectification. He had not taken recourse to the Court of Law earlier since he was having correspondence with the Head with the department. He prays that the law of limitation may not act against him in preferring this application because of the fact that he was pressing for his legal rights continuously. He cited the case of D.S. Nakara in AIR 1983 page 130 wherein the question of eligibility of the liberalised pension scheme was decided upon by the Hon'ble Supreme Court and for entitling benefits of the revised pension scheme to those retiring after a particular date while depriving the benefits to those who had retired earlier to that date. He averred that the orders dtd. 17.9.1980 should have retrospective effect as was the case in D.S. Nakara's decision. He also brought to notice that the authorities had given the benefit of the FR-22-C to the Junior Accounts Officer in the Department of Posts.

3. Shri Bhangade, learned Counsel for the respondent strongly objected to the application on the ground of limitation. He stated that the cause of action arose in the year 1976 when the applicant was promoted from A.S.P. to H.S.G.-I for a very short period of 6 months. At the time of his promotion, orders dtd. 19.6.1974 on the subject were operative wherein it was clearly stated that the appointment of A.S.P. to the rank of HSG-I was only to be treated as transfer and did not involve assumption of higher duties and responsibilities. If the applicant had only grievance on

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the score of discrimination and illegality of that order, that should have been agitated at that stage. Even when the impugned order was passed by the department in 1980 he had the liberty to approach the High Court for seeking relief. This Tribunal can not now interfere with the impugned order which was clearly more than 3 years old before the Tribunal was constituted under AT Act 1985. He reiterated that the respondents order dtd. 17.9.1980 was prospective and it specifically mentioned that no old cases will be reopened. This was a deliberate decision taken by the respondents and in the light of this the applicant could not allege discrimination.

4. Having heard both the sides, it is clear that the impugned order was to have prospective effect and therefore the question of benefit of FR-22(C) did not arise in regard to the applicant. The applicant could not establish any valid reason whey the matter was not agitated before a proper forum prior to coming to this Tribunal in the year 1987. The application is clearly barred by law of limitation. Besides there is no merit in the case as the impugned orders were prospective. The applicant was promoted for a very short period in the grade of HSG-I, 4 years before the orders came into effect. The application therefore, fails and is dismissed with no order as to costs.

N.K. VERMA
(N.K. VERMA)
MEMBER (A).

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