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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~
NEW BOMBAY BENCH

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T.A. No. 24/88

198

DATE OF DECISION 5-3-1990

Narayan Pandurang Yeolekar Petitioner

Mr V.S.Khedkar Advocate for the Petitioner(s)

Versus

Union of India Respondent

R.K.Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.S.Chaudhuri, Administrative Member

&

The Hon'ble Mr. A.V.Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Yes

No



(12)

Before the Central Administrative Tribunal
New Bombay Bench, New Bombay-400 614

Date: 5-3-1990

CORAM

Hon'ble Shri P.S.Chaudhuri, Administrative Member
&
Hon'ble Shri A.V.Haridasan, Judicial Member

Transferred application No.24/88

Narayan Pandurang Yeolekar,
Superintendent B/R Gr.I(Trd.)
Opp. Utkarsh Hospital,
560/25, South Sadar Bazar,
Solapur-413 003.

- Applicant

Versus

1. The Union of India
(Suit cummons to be served
upon the Secretary to the
Government of India,
Ministry of Defence,
New Delhi.

2. The Engineer-in-Chief,
Army Head Quarters,
DHO, Post New Delhi.

3. The Chief Engineer,
Southern Command,
Pune-411 001.

- Respondents

Mr V.S.Khedkar &
Mr K.Y.Modmekar

- Counsel for the
applicant

Mr R.K.Shetty

- Counsel for the
respondents

Oral Judgement

(Shri A.V.Haridasan, Judicial Member)

The applicant, a retired Superintendent in the Construction Division of the office of the Garrison Engineer (Project) R&D Arangaon has filed this suit as a Regular Civil Suit before the Civil Judge, Senior Division at Ahmednagar for a declaration that the order No.150101/7/78/FIB(R-DPC) of the Chief Engineer, Southern Command, Pune dated 28th February, 1979 cancelling his promotion as Superintendent B/R Grade I is improper, unjust and illegal and ab-initio void, that he continues in the post of Superintendent B/R


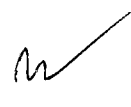
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Grade I from 1.1.1979 to 30.8.1982 and for recovery of a sum of Rs.5500/- for the difference of pay and allowances in the grade of Superintendent B/R Grade I from 1.1.1979 to 30.8.1982 and the pay and allowances already paid to him. The suit was transferred to this Tribunal under Section 29 of the Administrative Tribunals Act. The brief facts of the case can be stated as follows.

2. The plaintiff was first appointed as Sub-Oversear on 26th May 1951 in the office of the Executive Engineer(Construction III Division), Khadakwasala as per the order dated 14th November 1978. Thereafter while working as Superintendent B/R Grade II, he was promoted on ad hoc basis to the post of Superintendent B/r Grade I by order dated 14th December 1978 which was subsequently amended by another order dated 28th December 1978. The applicant assumed charge as Superintendent B/r Grade I on 1.1.1979. But the ad hoc promotion given to him as Superintendent B/R Grade I was cancelled by the impugned order dated 28th February 1979 and he was reverted to the post of Superintendent Grade II. The applicant contends that this cancellation of the promotion is illegal and arbitrary so that it should be deemed that this order of reversion did not take effect and hence he prays for a declaration that he continued in the post of Superintendent B/R Grade I till the date of superannuation and also for the recovery of the difference in his salary consequent on the illegal order.

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3. In the reply statement filed on behalf of the respondents it has been inter alia contended that the claim of the applicant is hopelessly barred by limitation since he is challenging the order passed on 28.2.1979 only on 7.9.1985 in the suit.

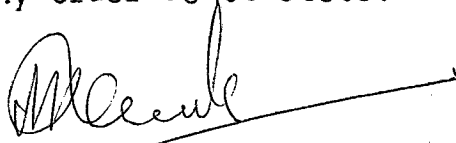
4. We have heard the arguments of the learned counsel on either side and have also carefully gone through the various materials placed before us. The learned counsel for the applicant submitted that the delay, if at all was caused on account of the fact that on 31.8.1982, the respondents have given the applicant a clear understanding that he would be

~~be given the promotion with retrospective effect. But the learned counsel has not been able to show us any such understanding given in writing by the respondents. The learned counsel submitted that the understanding was given to him only orally. This submission has been specifically denied by the respondents in the reply statement filed. Further, it is difficult to believe that an authority under the Government has given an understanding orally while there was nothing preventing the authorities to give the relief to him in writing if he was entitled. So we are not convinced that there has been any such oral understanding. As stated earlier, the cause of action basing on the cancellation of the promotion order on 28.2.1979 arose several years prior to the date on which the suit was filed before the Court of~~

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the Civil Judge, Senior Division at Ahmednagar, we are of the view that the claim of the applicant is hopelessly barred by limitation since it has been made long after a period of three years. Since the applicant does not therefore have a subsisting legitimate grievance, the application fails and the same is dismissed. In the circumstances, we do not make any order as to costs.



(A.V. Haridasan)
Judicial Member



(P.S. Chaudhuri)
Admve. Member

5-3-1990

trs

Judgement dt 5.3.90
served on R. No 3

NY
24/4/90

Judgement dt. 5.3.90
served on R. No. 142
on dt. 4.4.90 & N11

NY
24/4/90 R
24/4