

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CIRCUIT SITTING AT PANAJI, GOA

O.A. No. 788/88

198

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DATE OF DECISION 16-12-1988

Iqbal Mohammed Khan

Petitioner

Applicant in person

Advocate for the Petitioner(s)

Versus

Under Secretary to the Govt. of India
Department of Tourism, New Delhi. Respondent

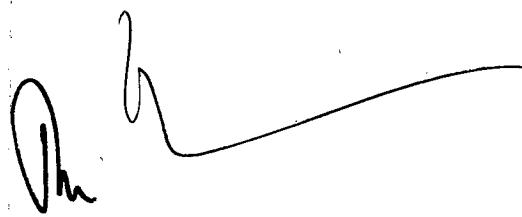
Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. M.B. Mujumdar, Member (J)

The Hon'ble Mr. P.S. Chaudhuri, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT PANAJI, GOA.

O.A.788/88

Iqbal Mohammed Khan,
Manager,
Govt. of India Tourist Office,
Communidade Bldg.,
Church Square,
Panaji, GOA.

.. Applicant

vs.

Under Secretary to the
Govt. of India,
Department of Tourism,
Transport Bhavan,
1-Parliament St.,
New Delhi.

.. Respondent

Coram: Hon'ble Member(J) Shri M.B. Mujumdar
Hon'ble Member(A) Shri P.S. Chaudhuri

Appearance:

Applicant in
person.

ORAL JUDGMENT

Date: 16-12-1988

(Per M.B. Mujumdar, Member(J))

The applicant, Shri Iqbal Mohammed Khan, who is working as Manager, of the Govt. of India Tourist Office at Goa has filed this application on 25-10-1988, under Section 19 of the Administrative Tribunals Act, 1985 for stepping up his pay with effect from 29-5-1964 i.e. the date on which one of his juniors was promoted as Information Assistant on adhoc basis.

2. It is necessary to state some relevant facts before passing the final order. In 1955 the applicant joined as Upper Division Clerk(UDC) with the Govt. of India Tourist Office at Aurangabad. On 29-5-1964 one of his juniors, T.D. Gujrati, who was working at Varanasi was promoted on adhoc basis as Information Assistant at Varanasi itself in pursuance of an order dtd. 21-5-1964. Even at that time the

applicant was working as UDC at Aurangabad. The applicant made a representation against the adhoc promotion of Shri Gujrati on 25-5-1964. But no reply was given to his representation. In 1968, on the recommendations of the DPC the applicant was promoted as Information Asstt. He ranked first in the panel. Shri Gujrati's ad hoc promotion as Information Asstt. was also regularised on the recommendations of the DPC. In the panel, Shri Gujrati was shown junior to the applicant. On 20th January, 1971 the applicant submitted a representation for stepping up his pay with effect from the date of the ad hoc promotion of Shri Gujrati who, on account of his ad hoc promotion, was getting more pay than the applicant. The immediate superior of the applicant had recommended the request of the applicant, but by order dtd. 5-6-1971 the applicant's representation was rejected. The applicant submitted a second representation for stepping up of his pay on 2-3-1976. But that was also rejected by letter dtd. 22-1-1980. The applicant then submitted his further representations on 7-5-81 and 5-5-1982, but no reply was received. He sent a number of reminders dtd. 14-9-1983, 21-8-1987 and 26-10-1987. But there was no reply. Finally on 24-2-1988 he made a representation to the Director General, Department of Tourism, Delhi, who rejected it on 13-5-1988.

3. We have heard the applicant in person. From the above facts it is clear that the present application is hopelessly time barred. Shri Gujrati was first promoted on adhoc basis, ^{Shri Gujrati} as Information Assistant on 29-5-1964. The applicant

did represent against his promotion. But no reply was received by him. Hence on 20-1-1971 he made his first representation for stepping up of his pay and for bringing it on par with that of Shri Gujrati. But it was categorically rejected on 5-6-1971 as can be seen ^{from} at page 12 of the application. The applicant's second representation substantively for the same relief made on 3-2-1976 was also rejected on 22-1-1980. Hence, in our opinion, the applicant should have approached some Court within a reasonable time from 5-6-1971. Subsequent representations and reminders sent by the applicant would not bring his case within the period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985. The reply dtd. 13-5-1988 will also not bring the application within limitation. We, therefore, hold that the application is barred by limitation.

4. Secondly, Shri Gujrati was promoted as Information Assistant on ad hoc basis on 29-5-1964. It is true that he was continued as Information Asstt. on ad hoc basis till he was regularised by the DPC held in 1968. Due to his working as Information Asstt. on ad hoc basis continuously, he was bound to earn some increments. It is not disputed that after he was regularised he was placed junior to the applicant. When a junior is getting more pay because of his ad hoc but continuous appointment to a higher post, that will not entitle his senior to ask for stepping up of his pay under FR 22C. However, it would have been a different matter if the junior would have been promoted to another identical post. As already pointed out, the applicant was working as UDC at Aurangabad while Shri Gujrati was working

as UDC at Varanasi and he was given ad hoc promotion there only. It must have been by way of some local arrangement.

5. We, therefore, reject the application summarily under Section 19(3) of the Administrative Tribunals Act, 1985.



(P.S.CHAUDHURI)
Member(A)


(M.B.MUJUMDAR)
Member(J)