

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION No: 501/96

Date of Decision : 11th Jan., 2002

T.M.Farkade

... Applicant.

Applicant in person

... Advocate for Applicant.

-Versus-

Union of India & Ors.

... Respondent(s)

Ms.Tanna for Shri R.S.Sundaram

... Advocat for Respondent(s)

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Smt.Shanta Shastry, Member (A)

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?

S.L.J.
(S.L.JAIN)
MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

CAMP : NAGPUR

OA.NO.501/96

Dated this the 11th day of January, 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastri, Member (A)

Tulsiram Marotirao Farkade,
R/o Raj Colony, Near V.M.V.
Walgaon Road, Amravati.

... Applicant

Applicant in person

vs.

1. Union of India
through Member (P),
Department of Posts,
Ministry of Communications,
New Delhi.
2. The Chief Postmaster General,
Maharashtra Circle,
Mumbai.
3. The Postmaster General,
Nagpur Region,
Nagpur.
4. The Sr.Suptd.of Post Offices,
Amravati Division,
Amravati Camp.

... Respondents

By Advocate Ms.U.R.Tanna
for Shri R.S.Sundaram

O R D E R

(Per : Shri S.L.Jain, Member (J))

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for direction to the respondents to promote the applicant w.e.f. 1.10.1991 in HSG.II cadre from the date his juniors are promoted with back wages and continuity in promotional cadre along with consequential reliefs.

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2. The applicant claims that he was appointed in the cadre of Postal Clerk in the Department of Posts on 1.7.1962 in the scale of Rs.110-240, passed the Departmental Examination of P.O. and RMS Accountants in 1975 and was appointed/promoted as Postal Accountant in the scale of Rs.260-480 with special pay of Rs.45/- in Head Post Office, Amravati w.e.f. 1.2.1977. On introduction of One Time Bound Promotion Scheme in the Department of Posts w.e.f. 30.11.1983, the applicant was promoted as LSG Postal Accountant w.e.f. 30.11.1983 and was subsequently posted in Standard Supervisory LSG Position in Head Post Office, Amravati w.e.f. 1.11.1985. The applicant claims that he had completed 26 years of service in the Basic Cadre on 5.7.1988. The said fact is not being denied by the respondents.

3. B.C.R.Scheme (Biennial Cadre Review Scheme) came into force on 1.10.1991. Departmental Promotion Committee after considering the cases of the employees issued orders on 24.6.1992, the juniors to the applicant were considered by DPC for promotion in B.C.R.Scheme w.e.f.1.10.1991. Again the second list of officials promoted in B.C.R. Scheme to HSG.II was issued on 24.12.1992 but the name of the applicant did not find place even in the said list.

4. The applicant claims that he agitated the matter with the Postmaster General, Nagpur in Union Meetings dated 17.11.1992, 20.5.1994, 21.9.1994 and 17.2.1995. Suffice to state that the applicant has approached this Tribunal on 6.5.1996. In para 3 of the OA. the applicant claims that the application is within limitation period

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prescribed under Section 21 of the Administrative Tribunals Act, 1985. The applicant had represented vide his representation dated 18.7.1992, 24.10.1992 and last representation dated 27.9.1995. He claims that he has not received any reply. Repeated representations do not give a fresh cause of action to the applicant. As such, failure of the applicant to agitate his grievance in respect of representations dated 18.7.1992 and 24.10.1992 withⁱⁿ a period of one and a half year, the claim of the applicant in respect of his ^{being} ignored^{by} for being promoted in B.C.R. Scheme is barred by time.

5. The respondents have stated in para 11 of the written statement that the case of the applicant for his promotion was again considered by review DPC of 22.12.1995, met on 16.7.1996 and it did not include the name of the applicant for promotion to HSG-II under BCR due to the following reasons :-

"Due to unsatisfactory record of service, Charge-sheet was issued to Shri T.M. Farkade on 31.3.1990 and decided on 28.10.1992, awarded punishment of reduction of pay punishment order was operating from 29.10.1992 to 31.10.1992 retired on 31.10.1992, hence not recommended."

6. Keeping in view the date of filing of the OA. which is 6.5.1996, the date of review DPC of 22.12.1995 met on 16.7.1996, the claim of the applicant cannot be considered as it is a subsequent cause of action.

7. The applicant has relied on an order passed in OA.No.230/93 decided by CAT, Mumbai Bench, Circuit Sitting at Nagpur in case of Namdeo Pundalikrao Paithane vs. Senior Supdt. of Post Offices, Amravati & Ors. decided on 6.9.1993 wherein it has been laid down that the requirement under the instructions is only 26 years of satisfactory service. We agree with the said proposition of law.

8. Other case relied by the applicant is TAA-158/86 S.V.Ranade & Ors. vs. Union of India, 2001 (3) ATJ 258 - Dagadu Raghunath Newase vs. Union of India & Ors. relates to One Time Bound Promotion Scheme.

9. OA.NO.986/91 V.V.Kamath vs. Union of India & Ors. also relates to Biennial Cadre Review. It is true that in view of para 2.2 (iv) Biennial Cadre Review Scheme the criteria for promotion will be eligibility of 26 years of satisfactory service but in view of para 5 of the said Scheme, it is laid down that "While the promotion in the first occasion will be in terms of existing norms of seniority-cum-fitness consequent promotion will be subject to suitable evolution^{an} procedure to be evolved in consultation with the staff side." hence, consideration of the case of the applicant in the year 1992 on the said basis of 'seniority-cum-fitness', there was no error. Para 5 of the said scheme was not subject of consideration in cases decided in OA.NO.230/93 & 986/91. As such the promotion on first occasion based on the criteria adopted by the respondents cannot be said to be irregular/illegal. Though the claim in respect of the same has been held to be barred by time by us, still on merits as discussed above the applicant has no case.

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10. In the result, we do not find any merit in the OA. It is liable to be dismissed and is dismissed accordingly with no order as to costs.

Shanta
(SMT.SHANTA SHASTRY)
MEMBER (A)

P.S.M.
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

R.P.No.2004/2002 in OA.NO.501/96

Dated this the 25TH day of June 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastri, Member (A)

Tulsiram Marotirao Farkade

...Applicant

vs.

Union of India & Ors.

...Respondents

TRIBUNAL'S ORDER

{Per : Shri S.L.Jain, Member (J)}

The applicant in OA.NO.501/96 which was decided on 11.1.2002, the copy of which was received by the applicant on 30.1.2002 has filed this Review Petition on 15.2.2002.

2. The OA. was dismissed on account of the fact that it was barred by time but only with a view that the matter attaches finality and in case the view regarding limitation is taken otherwise, it was also decided on merits.

3. The ground on which Review Petition is filed is that the plea of limitation does not stand and the Apex Court has held that where Government itself is at fault, it should not stand on plea of limitation. If we consider the same as a ground for review, then the applicant is re-arguing his case on question of limitation which cannot be permitted in view of Apex Court decision reported in JT 2000(7) S.C.359.

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4. The second ground on which review is sought is that in B.C.R.Scheme only 26 years of satisfactory service is required for consideration for getting the benefit of the said Scheme which the applicant completed on 5.7.1988. As the Scheme came in force w.e.f.1.10.1991, the subsequent event regarding issue of chargesheet dated 31.3.1990 and penalty awarded on 28.10.1992 which was operative till 31.10.1992 cannot be taken into consideration. The said plea appears to be a ground for not considering the applicant for B.C.R.Scheme but it was not the sole ground for dismissing his OA.

5. Regarding Review DPC dated 22.12.1995 met on 16.7.1996, the Tribunal observed that as the OA. was filed on 6.5.1996, it being subsequent cause of action, the said grievance cannot be raised in the present OA. The applicant who failed to agitate the said cause of action by filing a fresh OA. or even amending the present OA. if permissible by law is entitled to raise such pleas as and when he desires so.

6. In the result, we do not find any ground which suggests that there is an apparent error on the face of record to review the order dated 11.1.2002. Review Petition deserves to be dismissed and is dismissed accordingly.

Shanta Shastri

(SMT.SHANTA SHASTRY)

MEMBER (A)

S.L. Jain

(S.L.JAIN)

MEMBER (J)

mrj.

dt. 25.6.02.
Order/Judgment despatched
to Applicant/Respondent (s)
on 1.8.02

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