

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:555/99

DATE OF DECISION:

29<sup>th</sup> Nov, 2002

Shri Bhagwan Sirumal Lalchandani

Applicant.

Shri G.K. Masand

Advocate for  
Applicant.

Verses

Union of India through Secretary,  
Ministry of Finance

Respondents.

Shri V.S.Massurkar

Advocate for

CORAM

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

Hon'ble Smt. Shanta Shastry (A)

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to  
other Benches of the Tribunal? no

(3) Library. yes

Plon /  
(S.L. Jain )  
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 555/99

the 29<sup>th</sup> day of NOVEMBER 2002

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

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

Bhagwan Sirumal Lalchandani  
Residing at Satguru Niwas  
Opp.. Christian Colony,  
Bela D'Souza Road,  
Jail Road, Nasik Road.

...Applicant.

By Advocate Shri G.K. Masand

V/s

Union of India through the  
Secretary in the Ministry of  
Finance, Department of Economic  
Affairs, Currency & Coinage  
Division, North Block,  
New Delhi.

...Respondents.

By Advocate Shri V.S. Masurkar.

O R D E R

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

This is an application under Section 19 of the Administrative Tribunals Act 1985 to quash and set aside Memorandum dated 5.4.1995 (Exhibit A) imposing the penalty of 'Censure' and for the declaration that the sealed cover procedure adopted by the Respondents in respect of the applicant for consideration for the post of General Manager by the Review D.P.C. held on 18.6.1993 in pursuance of order dated 9.1.1992 passed by the Tribunal in OA 472/88 is illegal and bad in law with the direction to the respondents to hold the fresh Review D.P.C. as per order dated 12.4.1994 (Exhibit C) with consequential benefits.

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2. The applicant has claimed delay condonation in filing the OA in OA itself alongwith Miscelllenious Petition No. 443/99 as the OA is filed on 23.6.1999.

3. The applicant filed OA 472/88 before this Tribunal which was decided vide order dated 10.10.1991 which is extracted below:

"Accordingly the applicant's candidature has also to be considered for the said promotional post like any other person not withstanding the fact that he has not completed 5 years of service as provided in the rules, in view of the fact that under the rules as they existed when the vacancy arose he was fully eligible and qualified for promotion to the said post. Accordingly, the respondents are directed to consider the candidature of the applicant for the said promotional post like any other candidate taking into consideration that he is fully eligible for the said post."

4. The applicant was working as Deputy General Manager in the Currency Note Press Nasik since 24.2.1986, approached the Tribunal in OA 472/88 for the grievance which as enumerated in the order is extracted below:

" The applicant who is working in the Currency Note Press, Nasik as Deputy General Manager since 24.2.1986 feeling aggrieved by the amended recruitment rules which has resulted in depriving him from getting the promotional post of General Manager, Currency Note Press, Nashik, has approached the Tribunal praying that directions be issued to the respondents to consider the applicant for promotion to the post of General Manager, which is lying vacant since 10.1.1988 on the basis of the Recruitment Rules as they existed then the direction may also be issued to the respondents to revise and amend the Recruitment Rules promulgated vide notification dated 16.2.1988 on the lines of the instructions contained in Government of India, Department of Personnel & Training O.M. dated 8.5.1987 read with O.M. dated 18.3.1988."

5. After the decision of the OA stated in para 3 of the order, the applicant filed C.P. 200/92 in OA 472/88 which was decided vide order dated 9.1.1992 which is extracted below:

"Respondent No.1 to consider the case of the applicant in accordance with the recruitment rules as on

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10.2.1998 for the post of General Manager, Currency Note Press, Nashik Road. Respondent No.1 also to satisfy itself that proper directions were given to the review DPC which met on 18.6.1993. If it is found that the DPC was misdirected, Respondent No.1 is directed to hold a fresh review DPC to consider the case of applicant for the post. It would be proper for the review DPC so held to adopt "sealed cover" procedure so long as disciplinary proceedings against Applicant are not concluded. Respondent No.1 to modify the order appointing Respondent No.4 to the post of General Manager, Currency Note Press as on 27.11.1991 stating that the order would be subject to decision in the case of the applicant. Respondent No.1 should otherwise follow strictly the guidelines of the Government in regard to "sealed cover" procedure and should expedite the disciplinary proceedings against the applicant so as to bring them to a conclusion within 6 months from the date of communication of this order. Respondent No.1 is saddled with cost of Rs.500/- for the reasons indicated. Alleged contempt petitioners 1 to 4 are discharged.

6. The disciplinary proceedings against the applicant were pending when the order passed in C.P. 200/92 decided on 9.1.1992 ended with penalty order of 'Censure' with the issuance of Ministry of Finance, Department of Economic Affairs, Vigilance Section Memorandum No. F 26/89 - Vig. dated 5.4.1995.

7. In pursuance of the order passed in OA 472/88 and Contempt Petition 200/92 decided on 10.10.1991 and 9.1.1992 respectively the Review D.P.C. was held on 18.6.1993. By perusal of the reliefs claimed it is clear that the applicant is challenging the order dated 5.4.1995 imposing the penalty of 'Censure' and the proceedings of Review D.P.C. held on 18.6.1993.

8. Before we proceed to consider the case on merits, it is necessary to consider the delay condonation application (MP 443/93). On perusal of the same we find that the ground alleged

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for delay condonation is that no one would be affected in the event of the applicant being granted the reliefs prayed for, failing which the applicant would be seriously prejudiced.

9. It is true that the applicant has alleged Malice, Bias, discrimination and Gulati who was considered in D.P.C. and Review D.P.C. held on 11.8.1988 and 18.6.1993 respectively was not eligible for consideration. Suffice to say that these grounds related to merits of the claim and not meant for consideration of delay condonation. For consideration of a case for delay condonation in filing OA only the ground to be considered is the applicant had sufficient cause for not making the application within such period i.e. within one year as per Section 21(1) (a) or one and half year as per Section 21(1)(b) of the Administrative Tribunals Act 1985.

10. If we proceed to examine the ground alleged in M.P. 443/93 we are unable to find out any sufficient cause for not filing the OA <sup>in time</sup>. Since 18.6.1994 (one year after the Review D.P.C.) and 5.4.1996 (after the order of punishment of 'Censure'). As such in our considered opinion M.P. 443/93 has no merit, it is liable to be dismissed and is dismissed accordingly. As such OA is hopelessly barred by a period of more than 5 years in respect of review D.P.C. and more than 3 years in respect of order of punishment of 'Censure' referred above.

11. Apart from it, the OA seeks plural remedies in contravention of Rule 10 of CAT (Procedure) Rules 1987 - one - in respect of review D.P.C. and another in respect of punishment of

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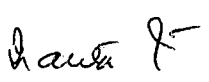
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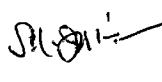
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censure, as the reliefs sought are not based on single cause of action. On this ground also the OA deserves to be dismissed.

12. If we consider the basis of the grievance of the applicant, it is an order passed in OA No.232/96 on a reference by the Division Bench dated 4.6.1998 in case of D.S. Karanath V/s Union of India and others. Suffice to say that the applicant cannot be permitted to raise the grievance based on the said order after more than a year of passing the said order based on principle of equality before law particularly when he ~~was~~ not challenged the order passed in C.P. after keeping silence for ~~more~~ than 5 years particularly <sup>when</sup> ~~which~~ he agitates that the order passed in C.P. was contrary to law.

13. In the result M.P. for delay condonation 443/99 has no merit, it deserves to be dismissed and is dismissed accordingly resulting OA is also dismissed. No order as to costs.

  
(Smt. Shanta Shastri)  
Member (A)

  
(S.L. Jain)  
Member (J)

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