

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 12th DAY OF JANUARY 1987

Present : Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and

Hon'ble Shri L.H.A. Rego, Member (Admn.)

APPLICATION NO.659/1986

B.V. Viswanatha Sharma,
S/o V. Venkatanarayana Sastry,
Senior Auditor,
O/o the Accountant General,
(Audit II), Karnataka,
Bangalore-560 001.

.... Applicant

(Dr. M.S. Nagaraja, Advocate)

V.,

The Accountant General,
(Audit II), Karnataka,
Bangalore - 560 001.

The Comptroller and Auditor
General of India,
No.10, Bahadur Shah Safar Marg,
New Delhi-110 002.

.... Respondents

(M. Vasudeva Rao, Standing Counsel)

This application having come up for hearing today,
and after hearing both sides, Hon'ble Shri Justice
K.S. Puttaswamy, Vice-Chairman, made the following:


O R D E R

In this application made under Section 19 of the
Administrative Tribunals Act, 1985 (Act), the applicant
has sought for a direction to the respondents to grant
him 4 advance increments from the date he passed the

confirmatory examination for the posts of Upper Division Clerks (UDC).

2. After his discharge from the Indian Army, the applicant was appointed as an UDC on 20.2.1970 in the office of the Accountant General, Karnataka, Bangalore (AG), and on that appointment he was allowed to draw the minimum of Rs.130/- of the time scale of Rs.130-300. In May, 1971, he passed the confirmatory qualifying examination prescribed for the post of an UDC, and on passing of that examination, he was allowed to draw a pay of Rs.150/- in terms of para 288D of the Manual of Standing Orders (Administrative) Vol. I (SO) issued by the Comptroller and Auditor General of India (C&AG) with which he had no grievance.

3. On 28.3.1980, the initial pay of the applicant as an UDC was fixed at Rs.150/- in the time scale of Rs.130-300 on the basis of his previous service in the Indian Army. When that was done, the applicant moved the respondents to allow him benefit of 4 advance increments from May, 1971. But the C&AG, by his communication dated 25.7.1980 addressed through the AG, rejected the same on the view that para 288D of the S.O. only permitted refixation at Rs.150/- and did not permit drawal of 4 advance increments as claimed by the applicant. On 5.5.1986 the applicant has made this application in reality challenging the said order of the C&AG and for appropriate directions.



4. In their reply, the respondents have opposed the application inter-alia on grounds of limitation, delay and latches.

5. Dr. M.S. Nagaraja, learned counsel for the applicant contends that the true intent and object of para 288D of the SO clarified by the C&AG on 17.11.1964 (Annexure-B) was to allow 4 advance increments to an UDC passing the confirmatory examination and that being so, his client whose pay had been initially fixed at Rs.150/- was entitled for 4 advance increments from May, 1971 and the denial of the same was illegal, improper and unjust.

6. Shri M. Vasudeva Rao, learned counsel for the respondents refuting the contention of Dr. Nagaraja, contends that the application was liable to be dismissed on grounds of limitation, delay and latches. In the very nature of things it is necessary to consider this contention of Shri Rao first and then examine the merits if that becomes necessary.

7. Admittedly on the refixation of his pay on 28.3.1980 the applicant claimed for allowing 4 advance increments over and above the amount so fixed from the date he passed the examination in May, 1971 which was rejected by the C&AO on 25.9.1980, and were communicated to him by AG on 21.10.1980. Dr. Nagaraja, without disputing this, falls back on a representation made by the applicant on or about 14.4.1984 to the President of India (Annexure E) to rebut the objections urged for the respondents.

8. Even in making his representation to the President of India which were not statutory there was a delay of nearly 4 years. It is well settled that each representations are of no avail in deciding limitation delay and latches. We must therefore necessarily exclude the same in examining the objections of the respondents.

9. On an earlier finding, we cannot but hold that this application is clearly barred by time. We must throw out the claim of the applicant on this short ground.

10. As pointed out by this Tribunal in more than one case, the question of delay is one of the factors that can legitimately be taken into consideration in declining to grant relief. When so examined also, this application made *after seven years* cannot properly be granted at all.

11. On the view we have taken we decline to examine the merits.

12. In the light of our above discussion, we hold that this application is liable to be dismissed. We therefore, dismiss the application. But in the circumstances of the case, we direct the parties to bear their own costs.

Ms. Pradeep
Vice-Chairman

Member (AM) (R)
Member (AM) (R)

Mrv.