

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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Original Application No.: 511/91.

~~Transfer Application No.~~

Date of Decision 13.11.95

Shri Vasant B. Dewal,

Petitioner/s

Shri P. A. Prabhakaran,

Advocate for
the Petitioner/s

Versus

Union Of India & 6 Others,

Respondent/s

Shri P. M. Pradhan,

Advocate for
the Respondents

CORAM :

Hon'ble Shri. B. S. Hegde, Member (J).

Hon'ble Shri. M. R. Kolhatkar, Member (A).

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

M.R. Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

ORIGINAL APPLICATION NO.: 511 OF 1991.

Shri Vasant B. Dewal Applicant
Versus
Union Of India & 6 Others Respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).
Hon'ble Shri M. R. Kolhatkar, Member (A).

APPEARANCE :

1. Shri P. A. Prabhakaran,
Counsel for the applicant.
2. Shri P. M. Pradhan,
Counsel for the respondents.

JUDGEMENT :

DATED : 13.11.95

{ PER.: SHRI M. R. KOLHATKAR, MEMBER (A) }

1. In this O.A. which is filed on 29.05.1991, the applicant has prayed for the following reliefs :-

- (i) To direct the respondents to consider the applicant for promotion as Dy. Commissioner of Income Tax as on February 1991, the date on which the DPC met and considered the officers appointed on 7.10.1982.
- (ii) To direct the respondents to grant senior scale of Group 'A' with effect from 01.09.1986 to 07.10.1986 at the latest.
- (iii) To pay the arrears of salary for the period 01.09.1986 onwards. The aforesaid reliefs sought are without prejudice to the reliefs prayed for in O.A. 570/87 which are wholly adopted in this application.

2. The back-ground to the relief claimed is that the applicant joined the Income Tax Department in May, 1959 as Inspector of Income Tax. On 30.07.1968, the applicant was promoted as an Income-tax Officer Grade-III. On 18.04.1980 he was appointed as Income Tax Officer, Grade-II on purely adhoc basis. On 07.10.1982 he was regularised. The treatment of this adhoc period as regular period of service is ^{also} one of the reliefs ^{pressed at argument stage.} On 07.10.1982 the applicant was promoted and appointed in Group 'A', Junior Scale but he was allotted seniority of 1983. He was not considered for promotion as Deputy Commissioner Of Income-tax in February, 1991 alongwith the rest of promotees of 7.10.1982.

3. The respondents have opposed the O.A, firstly, on the ground of limitation; Secondly, on the ground of res judicata, since the issues raised by the applicant ~~have~~ already been decided by the Full Bench. in the case of V.K. Naidu Versus Union Of India reported at page 168 of Volume-II of Full Bench Judgements. It is added by the respondents that the applicant has since been promoted as Deputy Commissioner, Income-Tax.

4. We are required to consider the point of limitation as material, since the applicant himself has stated vide para 4 that the issues were not agitated separately till date, as they are taken up in far more detail and depth in O.A. No. 570/87 filed by the Association of Gazetted Officers of Income-tax department. However, the applicant thought it fit to place the case before ~~the~~ Tribunal as he apprehended that the decision in the other case would be delayed because of recalcitrance of

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the respondents. The applicant also states that he had filed a representation in 1987.

5. It is clear that in the guise of challenging the decision of the Departmental Promotion Committee not to consider him for promotion in 1991, the applicant is really claiming the relief in respect of a cause of action which arose in 1982 (ad hoc service), 1984 (adjustment of seniority in the year 1983) and grant of senior scale of Group 'A' (1986) in respect of which representation was filed in 1987. Thus the applicant ought to have approached the appropriate forum in 1982 and 1984 and he ought to have approached this Tribunal in 1988 or 1989 depending on the precise date of his representation for getting his grievances redressed. The applicant has ^{additionally} adopted the pleas and reliefs of O.A. 570/87. So far as that O.A. is concerned, that would be decided on its own merits. So far as the present O.A. is concerned, we consider that it is hopelessly time barred and on this ground alone the O.A. is required to be dismissed. We, therefore, dispose of the O.A. by passing the following order :-

: ORDER :

The O.A. is dismissed. There would be no order as to costs.

MR Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).

B. S. HEGDE
(B. S. HEGDE)
MEMBER (J).

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO.6, PRESCOT RD, 4th FLOOR,

BOMBAY - 400 001.

(24)

REVIEW PETITION No.129/95 in

Dated : 2-1-96.

ORIGINAL APPLICATION NO.511/91.

CORAM : Hon'ble Shri B.S.Hegde, Member (J)

Hon'ble Shri M.R.Kolhatkar, Member (A)

V.B.Dewal ... Applicants.

V/s.

Union of India & Ors. ... Respondents.

Y O R D E R (BY CIRCULATION)

Y Per Shri M.R.Kolhatkar, Member (A) Y

In this review petition, the review petitioner/
original applicant has sought review of our judgement
in OA-511/91 delivered on 13/11/95. The Original
Applicant had adopted the pleas and arguments of OA-570/87
in which reference to ^acatena of case laws including
Supreme Court and Full Bench of CAT was made. Our
judgement is sought to be reviewed by relying on
some of the same judgements.

2. So far as the pleas in respect of OA-570/87
are concerned, we have disposed of the OA by detailed
judgement giving our own reasons. So far as the pleas
in the present case ~~are~~ ^{were} concerned, we disposed of the
same on ground of limitation and giving reasons.

The review petitioner would urge that the Tribunal is
competent to admit time barred applications provided
sufficient cause for not making the application within
the prescribed period is given to the satisfaction
of the Tribunal.

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3. We have however decided the matter as barred by limitation and given detailed reasons for the same which are not required to be repeated. On consideration of the parameters of the review jurisdiction relatable to rules under order 47 of CPC, we are of the view ~~that~~ no grounds have been made out for review of our judgement. We therefore dismiss the same. We do so by circulation as is permissible under the rules.

M/R Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A)

B.S. Hegde

(B. S. HEGDE)
MEMBER (J)

abp.