

(7)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No. 679/91.

D.K.Thoke.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri V.Ramakrishnan, Member(A).

Appearances:-

Applicant in person.
Respondents by Shri R.K. Shetty.

JUDGMENT :-

[Per Shri M.S.Deshpande, Vice-Chairman] Dt. 11.8.1994.

By this application the applicant prays for considering his service from 12.2.1963 for the purpose of seniority and based on that seniority a direction to the Respondents to promote him and pay all the monetary benefits.

2. The applicant was appointed on 2.2.1963 on National Defence Academy Establishment and was transferred to the Headquarters of the Southern Command in 1971 and has been working as a Messenger from 1.1.1971. The Army Headquarters vide letter dt. 11.12.1974 granted eligibility to those who were transferred on or before 1.7.1973 to get their previous service benefits and to fix their seniority. Since the applicant was transferred on compassionate ground in 1971 he was eligible to have his previous service counted for the purposes of seniority, but since the Respondents did not grant that relief in spite of his application dt. 12.8.1989 raising objections to the seniority fixed in the year 1985, he has approached the Tribunal for the aforesaid relief

...2.

(8)


3. The Respondents contended that the applicant was confirmed as a Messenger on 1.12.1971 and was not entitled to the seniority as claimed by him in view of the punishments awarded to him. The seniority roll was again prepared in 1988 and shown to all the employees but no protests were lodged. The DPC was convened in 1989 recommending candidates crossing Efficiency Bar, lifting probationary period and recommending candidates for Quasi Permanency, but not for promotion. It is urged that ^{as the} question which has become stale with regard to counting of service from 1963, the applicant would not be entitled to any relief.

4. We have heard the applicant in person and all that he could tell us was that the Respondents had been generally behaving in a slip ^{shod} sort manner and did not attend to any of his grievances. By the Rejoinder the applicant has stated that he has not been shown his seniority list at all and in August, 1989 they had not considered his case for proper seniority. The present application was filed on 14.10.1991, while the applicant's representation as mentioned in the application was made on 12.8.1989. The present application raising objections to the seniority would therefore be barred by time. Even if we were to consider the applicant's claims sympathetically, it is difficult to see how the applicant could have been granted any promotions which have been mentioned ^{in view of} in the Schedule attached to the written statement. There were six punishments imposed on him. Two of them ended in censure, ~~and~~ one in final warning, two resulted in reducing ~~him~~ to a lower stage of pay, while in one his annual increment was withheld for six months. This

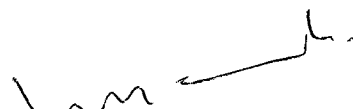
3. The respondents contended that the applicant was confirmed as a Messenger on 1.12.1971 and was not entitled to the seniority as claimed by him in view of the assignments awarded to him. The seniority roll was again prepared in 1988 and shown to all the employees but no protests were lodged. The roll was confirmed in 1989. Recommendations for candidates crossing different levels during probationary period and recommending candidates for final promotion, but not for promotion. It is urged that a question which has become stale with regard to counting of service from 1963, the applicant would not be entitled to any relief.

4. We have heard the applicant in person and all that he could tell us was that the respondents had been generally behaving in a spiteful manner and did not attend to any of his grievances. By the rejoinder the applicant has stated that he has not been shown his seniority list at all since August 1989. They had not considered his case for seniority. The present application was filed on 14.10.1991, while the applicant's representation as mentioned in the application was made on 12.8.1989. The present application raising objections to the seniority would therefore be barred by time. Even if we were to consider the applicant's claims sympathetically, it is still difficult to see how the applicant could have been granted any promotion which has been mentioned in the respondents' written statement. There are six assignments imposed on him. Two of them are in the nature of final warning, two are in the nature of a lower grade of pay, while the other two annual increments were withheld for six months. This

does not therefore appear to us to be a case where the applicant can be granted any relief. We see no merit in the application. It is dismissed.



(V. RAMAKRISHNAN)
MEMBER (A)



(M. S. DESHPANDE)
VICE-CHAIRMAN

B.

Review Petition No. 146/94 By Applicant/Respondents.

In

O.A./T.A./ST.A.No. 679/91.

Judgment/Order dated: 11/8/94

Coram: Hon. Justice A. K. Jaisankar (C.A.)
Hon. Justice S. K. Kulkarni (C.A.)

Per : Hon. Justice S. K. Kulkarni (C.A.)

O.A./T.A./ST.A.No. 679/91 was decided by the Bench consisting of the Hon'ble

Hon'ble Justice S. K. Kulkarni (C.A.)

on (Flag'A'). Against that Judgment/Order, the

applicant/respondents has filed Review Petition No. 146/94.

A copy of Judgment/Order despatched on 11/9/94 and received by applicant/respondents on 11/9/94.

Review Petition has been filed on 25/11/94. So it is in time /so there is delay in filing Review Petition is by 15 days.

As per rule 49 of the Central Administrative Tribunal Practices Rules 93, the Review Petition is submitted for orders by circulation, Rule 1(1)/II(a) of notification under annex appendix IV.

Date: 25/11/94.

Deputy Registrar.

In my view, the grounds submitted in the R.A. are not sufficient to set aside the order dt. 11/8/94.

Hon'ble Justice S. K. Kulkarni

17/11/94
157/94

The review application is dismissed as no ground is made out for review.

6/11/95