

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 619/92

~~Transfer Application No:~~

DATE OF DECISION 21.2.1994

Shri R.Sampat Kumar Petitioner

Shri S.P.Saxena Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri R.K.Shetty Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Shri~~ Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ?
3. ~~Whether their Lordships wish to see the fair copy of the Judgement ?~~
4. Whether it needs to be circulated to other Benches of the Tribunal ?

} NO,

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

(cc)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 619/92

Shri R.Sampat Kumar

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (J) Smt. Lakshmi Swaminathan

Appearance

Shri S.P.Saxena
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 21.2.1994

(PER: Lakshmi Swaminathan, Member (J))

Heard both counsels at length. The brief facts of the case are as follows. The applicant who is working as a Civilian employee as Superintendent E/M Gd.I in the office of the Garrison Engineer (Fys) Kirkee, Pune states that he had not been given the increment in pay due to him in the lower grade of Superintendent Gr.II on 1.2.1977 in the pay scale of Rs.425-500-EB-750; secondly, the grievance of the applicant is that he was not granted the increment due on efficiency bar from Rs.500/- to Rs.550/- as Superintendent (E) Gr.II w.e.f. 23.3.1978. According to him while he had been communicated the adverse remarks on his ACRs on which he made a representation on 9.11.1979, the respondents have failed to consider his representation before the DPC met for considering his crossing Efficiency Bar.

2. The learned counsel for the applicant has referred to the decision of the Supreme Court in Gurdial Singh Fijji vs. State of Punjab & Ors. AIR 1979 SC 1622. In this case the Supreme Court has held, inter-alia, that the opportunity

given to the persons like the applicant to make representation against adverse remarks in the ACRs communicated to them is not an empty formality. The court further observed that the Selection Committee must at least state as brief as it may, why it came to the conclusion that the officer concerned was not considered for inclusion in the select list. According to the learned counsel, the respondents have yet to dispose of the representation made by the applicant in 1979 against the adverse ACRs communicated to him for the period 1975-76 and, therefore, the proceedings of DPC which met for the purpose of considering the persons who ought to cross the Efficiency Bar in October, 1980 should not have considered the applicant's ACRs for 1976. He has also relied on another judgement of the Supreme Court in Sualal Yadav vs. The State of Rajasthan & Ors. AIR 1977 SC 2050, and Har Binder Lall vs. Comptroller & Auditor General of India & Anr. (1988) 7 ATC 567 on the question of limitation, if any, in this case. According to him, the applicant was communicated that he had not crossed the Efficiency Bar only in 1992, when the reasons were given, which were not based on latches and delay and, therefore, he has submitted that he ought to be allowed to cross the Efficiency Bar on the due date, i.e. 23.3.1978.

3. The learned counsel for the respondents has submitted that in view of the subsequent decision taken by the authorities, the arrears claimed by the applicant on the increment due from 1.2.1977 in the grade of Rs.425-500-EB-750 has been paid to him on 18.2.1994. However, it does not require any ~~case~~ ^{pursuance} to see that this amount has been paid by the respondents very belatedly. For this reason, the learned counsel for the applicant urged that interest may be paid. Since the applicant himself has approached this Tribunal only in June, 1992, the interest payable is restricted to one year prior to the filing of this application till the date

of payment at the rate of 12% per annum. The respondents are directed to pay the interest on the arrears of increment within one month of the receipt of this order.

4. Regarding the second claim for crossing Efficiency Bar, it is seen from the letter dated 26.11.1991 which has been given as Ex.A-1 by the applicant, that the respondents have already communicated their decision to him prior to this date. Apart from this, they have also stated that as the individual had not brought out any valid and convincing reason, there was no case for reconsideration of the earlier decision communicated to him. From this, it may not be possible to conclude that the respondents have considered the case of the applicant on reasons other than merely latches or delay. I have also considered the arguments put forward by the learned counsel on the aforesaid decisions of the Supreme Court and Hyderabad Bench of this Tribunal. The grievance of the applicant in this case relates to non-crossing of the Efficiency Bar in 1978. The respondents have also stated that at this point of time they are not able to produce the correspondence relating to the matter.

5. After considering the facts of this case and the reasons put forward in the application and the arguments of the learned counsel for the applicant, I am of the view that no satisfactory reasons have been given for condonation of delay of nearly 12 years. No evidence is also available in the record to show that the DPC which met in 1980 had not duly considered the case for crossing Efficiency Bar. Therefore, the claim for crossing Efficiency Bar from 23.3.1978 is rejected.

6. Having therefore considered the facts and the aforesaid judgements, I pass the following order.

ORDER

(a) The application is allowed ~~in~~ partly as directed above.

(b) There shall be no order as to costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

mrj.

(15)

: CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

R.P. No. 55/94 in
Original Application No. 619/92

Shri R. Sampatkumar
V/s.

... Applicant.

Union of India and others.

... Respondents.

CORAM: Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Tribunal's order on Review Petition by Circulation.

Dated: 22/4/94

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12/5/94

This Review Petition is in respect of the order passed on 21.2.94 in OA No. 619/92, in which the application ^{has} ~~was~~ allowed partly. This Review application has ^{been} ~~is~~ filed in respect of that part of the application ^{she} ~~rejecting~~ ^{plea} to cross the Efficiency Bar. No new grounds have been raised in the petition which could not have been raised at the time when the applicant was heard in support of the OA. There is no error apparent on the face of the order. The applicant's grievance is that the order is wrong but that apprehension cannot be a ground for review. Review Petition is, therefore, dismissed.

C

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

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