

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 1205/93

XXXXXX

199

(2)

DATE OF DECISION 13.7.1994

B L Meshram

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

1. Whether it be referred to the Reporter or not ? <sup>M</sup>
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? <sup>M</sup>

MEMBER

XXXXXX

  
(M.S. Deshpande)  
VICE CHAIRMAN

mbm

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PREScot ROAD, BOMBAY-1

CAMP: NAGPUR

O.A. NO. 1205/93

B.L. Meshram

..Applicant

v/s.

Union of India & Ors.

..Respondents

Coram: Hon. Shri Justice M.S. Deshpande, V.C.

APPEARANCE:

Mr. D B Walthare  
counsel for the applicant

Mr. M.G. Bhangade  
counsel for the respondents

ORAL JUDGMENT: DATED: 13.7.1994  
(Per: M.S. Deshpande, Vice Chairman)

The applicant seeks a direction that the decision of the respondents to keep the matter of crossing of Efficiency Bar (E.B.) in Sealed Cover was erroneous. The applicant was appointed on 12.7.1978 and his increment in the scale Rs.1350-30-1440-40-1800-E8-50-2200 would occur on 1st of July every year. The applicant was at E.B. on 1.7.91. In respect of an incident which occurred on 28.8.91 a departmental inquiry was started against the applicant and that inquiry is still pending. The applicant's grievance is that the D.P.C. for considering the question of crossing of E.B. should have met before 1.7.1991 and under the instructions issued in para 2.5 of the instructions dated 30.3.89 (Annexure 3) in the event of the D.P.C. being convened after a gap of time following the date on which the Government servant became due to cross the E.B., the Committee should consider only those Confidential Reports which it would have considered

had the DPC been held as per the prescribed schedule. If the Government servant is found unfit to cross the bar from original due date, the same DPC can consider the report for subsequent year also, if available, to assess his suitability in the subsequent year.

2. Since the incident in respect of which the departmental proceedings have started took place after 1.7.1991 evidently the DPC could not have considered that circumstance while determining the eligibility of the applicant to cross the E.B. on 1.7.1991. This would be the factual position.

3. According to Mr. Bhangade, the learned counsel for the respondents, the applicant had preferred a representation on 7.1.92 and that was rejected on 11.2.92. The present O.A. was filed on 9.11.93 and, therefore, the present application is barred by time. Annexure 2, which is the letter dated 11.2.92 and is addressed to the Deputy Commissioner of Income Tax by the Assistant Commissioner of Income Tax shows that the name of the applicant was put up before the DPC dated 19.12.91 ~~held~~ for considering the cases of crossing E.B. but the finding in respect of the applicant were kept in a sealed cover. A copy of this letter was also endorsed to the applicant. It is clear that the decision as taken by the DPC about the eligibility of the applicant to cross the E.B. has not yet been communicated to the applicant. It would be only after whatever decision that is taken by the DPC and the same is communicated to the applicant the question of limitation would arise.

The applicant's claim cannot, therefore, be said to have been barred by time.

4. Considering the rule position and the fact that the incident on the basis of which the Sealed Cover procedure has taken place on 28.8.91 i.e., after 1.7.91, which was the date on the applicant's eligibility to cross E.B. should have been considered, I direct the respondents to open the Sealed Cover and take a decision on the basis of the DPC's finding as to whether the applicant should be allowed to cross the E.B. or not. This be done <sup>in</sup> with a period of two months from the date of communication of this order. If the applicant is found to be eligible to cross the E.B. all the entitlements on that basis should be paid to the applicant within a period of one month thereafter. With the above directions the application is disposed of with no order as to costs.

*.....*  
(M.S.Deshpande)  
Vice Chairman