

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: **641/98**

Date of Decision: **26/7/99**

Dr. Anand Swaroop Goyal

Applicant.

Shri A.I. Bhatkar

Advocate for
Applicant.

Versus

Union of India & 2 Ors.

Respondent(s)

Shri R.K. Shetty

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. **Justice R.G. Vaidyanatha, Vice Chairman.**

Hon'ble Shri. **B.N. Bahadur, Member(A).**

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to other Benches of the Tribunal?

abp.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG. NO.6, 4TH FLR, PRESCOT RD,
Fort, Mumbai-400 001.

ORIGINAL APPLICATION NO:641/98.

DATED THE 26th DAY OF JULY, 1999.

CORAM: HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN.
HON'BLE SHRI B.N.BAHADUR, MEMBER(A).

Dr. Anand Swaroop Goyal,
working as Executive Engineer
(Civil) in the Office of
Chief Engineer(Navy),
Colaba, Mumbai - 400 005.

... Applicant.

By Advocate Shri A.I.Bhatkar.

V/s.

1. Union of India,
through the Secretary,
Ministry of Defence,
DHQ PO, New Delhi-110 011.

2. The Engineer-in-Chief,
Army Headquarters,
Kashmir House,
New Delhi-110 011.

3. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110 001.

... Respondents.

By Advocate Shri R.K.Shetty.

I ORDER I I ORAL I

I Per Shri R.G.Vaidyanatha, Vice Chairman I

This is an application filed by the applicant
claiming retrospective promotion from 1986-87. He wants
a direction to the respondents to hold a review DPC
for the year 1986-87 and then consider the case of the
applicant for promotion. Respondents have filed reply.
We have heard both counsels regarding admission.

2. In an application filed in 1998, the
applicant seeks the relief that he should be promoted

from 1986 or 1987. On the face of it, the application is not only barred by limitation but also hit by Principles of delays and laches. It is also a case of unsettling the seniority list followed for the last 10 to 15 years. Section-21 of Administrative Tribunals Act clearly provides xxx limitation of one year. Under the law of limitation, once time begins to run, it cannot be arrested by any subsequent event. Learned counsel for Applicant placed before us 3 decisions which are reported in:-

- 1) 1989(1)SLJ-97 (B. Kumar v/s. Union of India & Ors) where the Division Bench of this Tribunal has taken a view that if a subsequent representation has been decided on merits and rejected, then it will give a fresh cause of action. A perusal of the order shows that it is based purely on the facts and circumstances of the case.
- ii) (1992)21ATC-126 (S. Sagayananathan & Ors v/s. Divisional Personnel Officer, S.B.C. Division, Southern Railway, Bangalore) the Supreme Court while noting that the matter requires investigation. But from a perusal of the facts in the reported judgement allow it is not possible to say the period of delay. The cause of action was of supercession in 1983, SLP was filed in Supreme Court in 1989. We do not find when the OA had been filed by applicant in the Tribunal. Here it is a question of 3 to 4 years. Anyway, it cannot be more than 3 to 4 years delay.
- iii) 1990(3) SLJ - 15 (Mahadev Kalekar & Ors v/s. State Bank of Hyderabad) it is seen that it is a case of cause of action/ arisen in 1984 and it appears had

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7)	647 -
8)	648 -
9)	6487 - Transfer to P.R. New Delhi.
10)	<u>39627</u> -

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a writ petition was dismissed by High Court in 1989. There was a representation of Union in 1988. Therefore, it may be a case of delay of 3 to 4 years.

3. In the present case, we find that the applicant has come to this Tribunal challenging the supercession which took place 12 to 13 years back. The first representation has been specifically rejected by order dated 27/9/88, which is at page-42 of the paperbook. As soon as the applicant's representation was rejected and when admittedly his juniors were promoted, the applicant got a cause of action. It is well settled by number of decisions of Supreme Court that merely sending repeated representation and getting one more reply cannot give a fresh cause of action. The applicant has approached this Tribunal in 1998. It is well settled that sending repeated representation as observed in a case as reported in 1996-SCC-L&S-205 by Supreme Court (Administration of Union Territory of Daman & Diu v/s. R.D. Valand), will not arrest or save limitation. It is also an identical case where the applicant claimed promotion retrospectively from 1977, but his representation had been rejected in 1986, he made repeated representations, which were also rejected. Then he filed the OA in 1990. Though this Tribunal allowed the OA, the Supreme Court has set aside the order of this Tribunal and observed that the claim of the applicant is barred by limitation. In our view, the facts of that case, are directly applicable to the facts of the present case.

4. We must also note that each case depends



on its own facts and circumstances of the case. Once the 1987 representation has been rejected in 1988, the cause of action arose in the year 1988.

5. The applicant has taken 11 years more to approach this Tribunal. Hence, in the facts and circumstances of the case, we are constrained to hold that the application is not only barred by limitation but also by Principles of delay and laches and is therefore dismissed.

6. In the result, the application is rejected at the admission stage. There will be no orders as to costs.

B.N.Bahadur

(B.N. BAHADUR)
MEMBER(A)

R.G.Vaidyanatha

(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.