

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 243/98

Date of Decision: 14/6/99.

Shri Chandabhai Jamalabhai sikalkar

Applicant.

Shri D.V.Gangal

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. D.S.Baweja, 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)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO:243/98.

DATED THE 14TH DAY OF JUNE, 1999.

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

Hon'ble Shri B.S.Pawreja, Member(A).

Shri Chandbhai Jamalbhai Sikalkar,
working as Welder HS.IIm
at Engineer Stores Depot,
Dehuroad, Pune and
Re/at: 547, Khadak Mohalla,
Talegaon, Dabade.

... Applicant.

By Advocate Shri D.V.Gangal.

v/s.

1. The Union of India,
through the Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Chief Engineer,
Southern Command,
Pune-1.
3. The Commandant,
Engineers Stores Depot,
Dehuroad, Pune.

... Respondents.

By Advocate Shri R.K.Shetty.

I O R D E R I

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

This is an application filed by the applicant praying for financial benefits as a result of belated promotion for the period from 15/10/84 to 31/12/90. Applicant has filed MP-715/98 for condonation of delay. Respondents have filed reply to both OA and MP. We have heard both counsels on admission and MP for condonation of delay.

2. The applicant's case is that he was due for promotion from 15/10/84 but by mistake or otherwise his promotion was not granted. Subsequently the department granted him promotion from 1/1/90. The applicant's grievance is that he was due for promotion on 15/10/84 and the same was granted in 1990 and he is entitled to consequential monetary benefits



from 1984 to 1990.

The respondents have opposed the application on the ground of limitation, delay and lapses. It is true that there was a mistake on the part of administration in not giving promotion to applicant in 1984. But subsequently the mistake has been corrected and the administration issued the order of promotion dated 1/1/90 giving notional promotion to applicant retrospectively from 15/10/84 but he was not given consequential/^{monetary} benefits. After receiving this order, the applicant himself made a representation claiming monetary benefits from 15/10/84. His application to the administration is dated 3/5/91, but the administration rejected this request of the applicant by a specific order dated 25/7/91. Therefore, the cause of action arose in July, 91 but the applicant has taken seven years to approach this Tribunal.

3. Even after rejection of the claim, the applicant made one more representation after three years in 1994. It appears a local administration made a recommendation, but no order is passed by Competent Authority.

When the Administration has reject^{ed} the request of applicant by a specific order, there was no necessity for applicant to file one more representation and then come to the Tribunal seven years after the cause of action arose. It is well settled by number of decisions of Supreme Court that sending repeated representations will not stall or arrest the running of limitation.

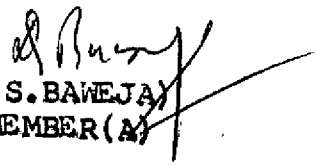
4. The recommendation by local officer on the applicant's subsequent application will not help him in any way since he is not the Competent Authority and a specific order had already been given by Competent Authority rejecting the case of the applicant.

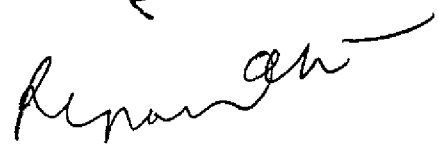
Learned counsel for applicant relied on a case of/
lall Harbinder/v/s. Controller Auditor General of India where it is reported in 1988(7)ATC 567 in stated that if the representation is considered and rejected on



merits, then a fresh cause of action arose. On the facts of the present case, this decision is not applicable since there is no fresh rejection by the Competent Authority.

5. In the result, considering the facts and circumstances of the case, we hold that the application is not only barred by limitation but also suffers from delays and laches and it is not a fit case to condone the delay of seven years from date of cause of action. MP-715/98 is dismissed and consequently, the OA is dismissed of as barred by limitation. No costs.


(D.S. BAWEJA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.