

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 815/98

Date of Decision: 12.7.1999

Shri K.S. Ranganathan Applicant.

Shri S.P. Saxena Advocate for
Applicant.

Versus

Union of India and others. 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? *in*

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

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESOCOT ROAD, MUMBAI:1

Original Application No. 815/98

Monday the 12th day of July 1999.

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

Hon'ble Shri D.S. Baweja, Member (A)

K.S. Ranganathan
Assistant Accounts Officer
A/C No. 8284554,
Controller of Defence Accounts (O)
Golibar Maidan,
Pune.

... Applicant.

By Advocate Shri S.P. Saxena.

V/s.

1. The Union of India
Through the Secretary
Ministry of Defence
New Delhi.
2. The Controller General of
Defence Accounts
West Block #V
R.K. Puram,
New Delhi.
3. The Financial Advisor (D.S.)
Ministrt of Defence,
(Finance Division),
R.K. Puram,
New Delhi.
4. The Controller of Defence
Accounts (O)
Golibar Maidan,
Pune.

... Respondents.

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

This is an application filed by the applicant seeking retrospective promotion from 1.4.1987 when his immediate juniors got promotion and other consequential reliefs. Since the application

is barred by limitation, the applicant has filed M.P. 85/99 for condonation of delay. The respondents have filed reply to both O.A. and M.P. We have heard the learned counsel for both sides regarding M.P. and also regarding admission.

2. It is now admitted that the applicant got promotion in 1990. His grievance is that he should be given promotion from 1.4.1987 when his immediate juniors got promotion. It appears that the applicant's promotion was held up since there was a charge sheet ^{and} ~~and the disciplinary~~ enquiry which resulted in imposition of minor penalty of reduction of pay for one stage without cumulative effect. The applicant's case is that minor penalty will not come in the way of applicant getting promotion. Further as on date of promotion i.e. 1.4.1987 there was no charge sheet pending against him. Hence he should have been promoted from 1.4.1987. As far as condonation of delay is concerned, the applicant has filed an appeal and mercy appeal to President of India and number of representations seeking retrospective promotion.

3. The respondents while supporting the action taken by them on merits have also pleaded that the application is barred by limitation and no grounds are made out for condonation of delay.

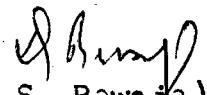
4. The applicant is claiming retrospective promotion from 1.4.1987 in the present application filed in 1998; when the applicant came to know in 1988 when his immediate juniors got retrospective promotion from 1.4.1987 and the applicant got cause of action to seek promotion from the date his junior got promotion in 1988. Then, what is more, the applicant has been regularly promoted from 26.9.1990 and that was the immediate cause of action for the applicant. Except sending some representations, the applicant did not approach this Tribunal. It is well settled that sending repeated representations will not arrest running of limitation. An official can file an application within one year from the date of cause of action and if there is no specific order, then the official can make representation and wait for six months then he can approach this Tribunal. Therefore when the applicant got promotion in 1990 he should have sent the representation seeking retrospective promotion from 1988 and if no order is received then he should have approached this Tribunal either in 1990 or in 1991. But the applicant has approached this Tribunal 7 years later in 1998.

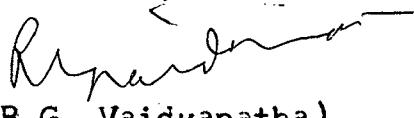
3. Hence taking any view of the matter the application is barred by limitation, delay and laches.

6. The further contention of the applicant is that pendency of disciplinary proceedings or pendency of minor penalty will not come in the way of promotion. His appeal against the order of punishment or mercy appeal to President of India will not help the applicant for condoning the delay. Even otherwise we are not impressed by the stand taken by the applicant that minor penalty given in the disciplinary case will not come in the way of opening the sealed cover and giving effect to the recommendation of the D.P.C. The learned counsel for the applicant has quoted some of the judgements of this Tribunal on this point, but in the latest decision of the Supreme Court in the case of State of M.P. AND Others V/s. I.A. Qureshi reported in 1998 SCC L&S 1121 it has been held that in the case of sealed cover procedure even a punishment of censure will come in the way of opening sealed cover. Therefore the administration has rightly taken the action of not opening the sealed cover. But the applicant was given promotion in the usual course subsequently.

Therefore we find that the application is hopelessly barred by limitation, delay and laches.

7. In the result M.P. 85/99 for condonation of delay is rejected. Consequently the O.A. is dismissed as barred by limitation, delay and laches.


(D.S. Bawej)
Member(A)


(R.G. Vaidyanatha)
Vice Chairman