

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision : 7.2.94.

OA 44/94 with  
MA 55/94

P.D. BHATNAGAR

... APPLICANT.

Vs.

UNION OF INDIA & ORG.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).  
HON'BLE MR. O.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI R.R. KUMAWAT.

For the Respondents ... ---

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

Applicant P.D. Bhatnagar has filed this application u/s 19 of the Administrative Tribunals Act, 1985 (for short the Act), praying that the impugned order dated 23.12.92 (Annexure A-1) be quashed with all consequential benefits and the respondents be directed to step up the pay of the applicant at par with Mr. L. Diwani with retrospective effect.

2. We have heard the learned counsel for the applicant and have carefully gone through the records.

3. The facts of the case are that Mr. L. Diwani was appointed as a Clerk on 19.4.61 whereas the applicant was appointed as a Clerk on 11.1.57. The applicant claims seniority above Mr. L. Diwani in the cadre of Ward Keeper. The applicant's counsel submits that since the applicant and L. Diwani both belong to the same cadre and the applicant being senior to him and the scale of pay attached to the lower and higher post in which they were entitled to draw pay ~~is~~ <sup>being</sup> identical, the applicant is entitled to stepping up of his pay at par with that of Mr. L. Diwani. The applicant has been admittedly making representations as to his grievance to the concerned authorities right from 6.5.77. He made the last representation on 23.12.92 which was not considered

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by the concerned authority on the ground that his claim for stepping up had already been rejected earlier under intimation to him. Repeated representations however do not extend limitation. The applicant in his representation dated 12.4.88 vide Annexure A-3 had stated as follows :-

"DCOS/KIT's Office Order No.E 111 of 6.2.87 applicant (P.D. Bhatnagar) at S.No.19 was fixed at pay Rs.2050/- on 1.1.86 as per recommendations of IV Pay Commission whereas Shri L.Diwani at S1.No.23 was given fixation at pay Rs.2200/- and we both were working as DSK(II)."

It is obvious from a perusal of this statement made by the applicant that Shri L. Diwani has started getting higher pay than the applicant w.e.f. 1.1.86 as per recommendations of the Fourth Pay Commission. Both the applicant and Shri L. Diwani were working as DSK(II). The cause of action at any rate had accrued to the applicant on 1.1.86 when Shri L. Diwani, allegedly junior to the applicant, had started drawing more pay than the applicant. The averments made in the application as to the point of time with effect from which stepping up of pay is claimed are extremely vague. The claim of stepping up becomes due when a junior person holding the same post in the same cadre having identical scale of pay starts drawing more pay. The matter of stepping up in our opinion is not a continuing cause of action. At any rate the claim for stepping up was made by the applicant vide Annexure A-3 dated 22.4.88 and it was denied to him much earlier than the communication made on 23.12.92. In view of the provisions relating to limitation contained in Section 21 of the Act, the Tribunal shall not admit an application where a final order has been made in connection with the grievance unless the application is made within one year from the date on which such final order has been made and in case a representation has been made and a period of six months had expired thereafter without such final order having been made within one year from the date of expiry of the said

period of six months. The present application was presented in this Tribunal on 17.1.94 i.e. after a lapse of more than 18 months of the making of representation dated 22.4.88 vide Annexur A-3.

4. In view of the position stated above, this application is hereby dismissed as being time barred at the admission stage. The M.A. for condonation of delay in the circumstances of this case is rejected.

( O.P. SHARMA )  
MEMBER (A)

Gopal Krishna  
( GOPAL KRISHNA )  
MEMBER (J).