



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.388/94

Date of order: 9.7.1997

Chandra Bhan : Applicant

Vs.

1. The Union of India through the Secretary, Ministry of Industries & Company Affairs, Deptt. of Industrial Development, Salt Section, Udyog Bhawan, New Delhi-110 001.
2. The Secretary, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi-110003.
3. The Secretary, Ministry of Home Affairs, Deptt. of Personnel & Administrative Reforms, North Block, New Delhi.
4. The Salt Commissioner, 2-A, Lawan Bhawan, Lawan Marg, Jhalana Doongari, Jaipur.
5. Shri B.V. Rao, Accounts Officer, Salt Commissioner's Office, 2-A Lawan Bhawan, Lawan Marg, Jhalana Doongari, Jaipur.
6. Smt. Asha Chabbar, Superintendent, Salt Commissioner's Office, 2A, Lawan Bhawan, Lawan Marg, Jhalana Doongari, Jaipur.

...Respondents.

Mr.M.M Bharathan, counsel for applicant.

Mr.S.S.Hasan - Counsel for respondents Nos.1 to 4.

Mr.P.N.Mathur - Counsel for respondent No.5

Mr.Prahlad Singh - Counsel for respondent No.6

CORAM:

Hon'ble Mr.O.P.Sharma, Administrative Member

Hon'ble Mr.Patan Prakash, Judicial Member.

PEF HON'BLE MR.O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Chander Bhan has claimed the following reliefs:

(i) issue appropriate orders and directions to quash the impugned order dated 7.2.1994 (Annex.A1) declaring it illegal, invalid, unjustified and violative of rules for appointment.

(ii) issue appropriate orders and directions to respondent

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No.1, 3 and 4 to implement the letter dated 31.5.1987 issued by respondent No.2.

(iii) issue appropriate orders and directions to quash the order dated 6.1.1988 Annx.A9 declaring it illegal, invalid, without jurisdiction and violative of rules for appointments.

(iv) issue appropriate orders and directions to respondent No.1, 3 & 4 to regularise the services of respondent No.5 & 6 with effect from 21.5.87 as approved by respondent No.2 on the post of Assistants.

(v) issue appropriate orders and directions to respondent Nos.1, 3 and 4 to give appropriate seniority to the applicant on the post of Assistant and further consequential benefits may also be awarded to the applicant and further promotions may also be awarded to the applicant.

(vi) issue appropriate orders and directions that may be deemed expedient under the facts and circumstances of this case, in favour of the applicant.

(vii) Cost of the application may kindly be granted to the applicant.

2. The applicant has retired from service on 31.1.1994 from the office of respondent No.4. He has also impleaded Shri B.V. Rao, Accounts Officer and Smt Asha Chabbara, Superintendent, working in the said office as private respondents in the O.A.

3. The applicant's basic grievance is that contrary to the prescribed procedure for recruitment of Group-C staff through the Staff Selection Commission, Shri B.V.Rao and Smt.Asha Chabbara, were recruited as Assistants and appointed as such vide order dated 1.4.1980 (Annx.A3) without following the procedure of recruitment through the Staff Selection Commission. Initially the Staff Selection Commission had agreed to regularise their services w.e.f. 21.5.1987 but subsequently in view of the directions of respondent No.1, their services

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were treated as regularised w.e.f the initial appointment of their appointment as Assistant namely 1.4.1980. Thereby, the applicant who was an official promoted from UDC as Assistant w.e.f. 19.10.82 was made junior to Shri V.B.Rao and Smt Asha Chabbara, respondents Nos.5 & 6. What the applicant basically wants now is that if higher seniority is assigned to him vis a vis respondents Nos.5 & 6, he would be entitled to consequential benefits of the said seniority in the form of consideration for promotion to the higher post, etc.

4. Earlier the applicant had filed an O.A No.142/86 which was disposed of by the Tribunal by order dated 2.12.93 (Annx.A11). The applicant had sought permission to withdraw the O.A on the ground that an order has been passed on 21.5.87 by the Staff Selection Commission, The O.A was dismissed as withdrawn with a liberty to file a fresh O.A. The order dated 21.5.87 referred to in the Tribunal's aforesaid order is that by which the Staff Selection Commission had initially directed that regularisation of services of respondents Nos.5 & 6 should be w.e.f. 21.5.87.

5. In the earlier O.A, the applicant had prayed for the following reliefs:

"(i) My appointment in the grade of U.D Clerk may be made regular from the date (in 1975) a clear vacancy existed.

(ii) The order C.No.C-18013/1/78/Vig/13073 dated 4/5.5.81 (Annx.No.10) making me junior to Shri P.E.Dass in the grade of U.D.Clerk may be set aside/quashed.

(iii) The appointment of Shri B.Vinayaka Rao and others in the grade of Assistants made vide order No.C.No.A-12026/1/79-Ad-I/8302 dated 1.4.1980 (Annx.No.14) may be examined with relevance to the Recruitment Rules and Govt. of India instruction for direct recruitment as their appointment was irregular and not in order since they were not appointed by the Staff Selection Commission.



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(iv) The promotion of Shri B.Vinayaka Rao the then Assistant the post of Superintendent vide order C.No.A32015/1/83/Ad-1/36026 dated 20.11.1984 (Annex.A15) was also not in order since it was ordered on the basis of a seniority list which itself was disputed and representations were pending for consideration and as such needs re-examination.

(v) My seniority in the grade of U.D Clerk/Assistant may be fixed as per the 40 point roster.

(vi) On fixing my seniority as U.D Clerk/Assistant may be strictly in accordance to roster, I would become the senior most Assistant belonging to Scheduled Caste and as such I may be promoted to the grade of Superintendent (Min.) from the date the vacancy reserved for Scheduled Caste candidate was existing in the 40 points roster."

6. The present O.A has been filed by the applicant on 10.8.94. The respondents have taken objection in their replies to the maintainability of the present O.A on the ground of limitation. We have, therefore, heard the arguments by the learned counsel for the parties on the question of limitation.

7. The reliefs claimed in the earlier O.A are not the same as claimed in the present O.A. Rather the reliefs claimed in the two O.As are quite different. Relief No.1 claimed by the applicant in the present O.A arises from rejection of his representation by order dated 7.2.94 (Annex.A1) of the present O.A. The applicant had made a representation on 21.12.93 against the grant of regularisation to Shri B.V.Pao and Smt.Asha Chabbara w.e.f. 1.4.80 as a consequence of the Govt. of India's order dated 6.1.88 (Annex.A9). Thus, the representation itself was made after a lapse of about 5 years from the date of the order in question. The applicant, therefore, cannot bring the matter within limitation in view of the fact that the representation itself was made very late.

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Relief clause (ii) seeks direction to the respondents to implement the letter dated 21.5.87 issued by the Staff Selection Commission stating, that Shri B.V.Rao and Smt Asha Chabbara, should be regularised w.e.f the date of its communication. Obviously, this claim is also very late and beyond limitation. The applicant has also separately challenged by relief clause (iii) the Govt.of India's order dated 6.1.88 by which respondent No.4 was permitted to treat the services of respondents Nos.5 & 6 as regular w.e.f. the initial date of their appointment i.e. on 1.4.80. As already stated above, prayer for quashing this order is quite late. Prayer clause (iv) flows from prayer clauses (ii) & (iii) and is therefore hit by the bar of limitation. Prayer clause (v) flows from the earlier reliefs claimed by the applicant. In particular the applicant has sought assignment of seniority on the post of Assistant by treating respondents Nos.5 & 6 as junior to him. Since their seniority was settled when they were treated as regular appointees w.e.f. 1.4.80 as a consequence of order Anxx.A9 dated 6.1.88 and this seniority position was not specifically challenged in the earlier O.A, the applicant cannot seek assignment of higher seniority now after such a long time.

8. On a careful consideration of the matter and after hearing the learned counsel for the parties, we are of the view that the present application in which the reliefs claimed are substantially different from those earlier filed by the applicant is hit by the bar of limitation and it is therefore not maintainable. A long time has passed since the seniority position of respondents Nos.5 & 6 was fixed and their services as Assistants regularised. Therefore, we are unable to consider grant of any relief to the applicant at this stage, in view of

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the bar of limitation.

9. In the result, the O.A is dismissed. No order as to costs.

  
(Ratan Prakash)

Judicial Member.

  
(O.P. Sharma)

Administrative Member.