

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

DATE OF ORDER : 16.3.2004

QA 02/2002

Pyare Lal Gupta son of Late Shri Onkar Mal Gupta aged about 61 years, resident of A/21, Tulsi Nagar, Anani Shah Road, Shastri Nagar, Jaipur. Voluntary retired from the post of Supervisor (HSG-II) Railway Mail Service, Jaipur.

.... Applicant

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur
3. Sr. Superintendent Railway Mail Service, Jaipur Division, Jaipur.

.... Respondents

Mr. C.E. Sharma, Counsel for the applicant.  
Mr. N.C. Goyal, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Bhandari, Member (Administrative)  
Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER

PER HON'BLE MR. BHARAT BHUSHAN

The applicant, Pyare Lal Gupta, has filed the CA u/s 19 of the Administrative Tribunal's Act, 1985, claiming for the




following reliefs:-

- "(i) That the entire record relating to the case be called for and after perusing the same, respondents may be directed to allow next higher scale under TBOP Scheme w.e.f. 30.11.1983 to the applicant by quashing letters dated 30.7.2002 and 27.2.1998 (Annexure A/1 and Annexure A/2) with all consequential benefits including arrears of pay and allowances etc."
- (ii) That the respondents be further directed to extend pensionary benefits i.e. pension, leave encashment, gratuity and commutation after refixation of pay w.e.f. 30.11.1983.
- (iii) Any other other, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded.

2. The case of the applicant is that he had joined the respondents department on 31.10.1965 on the post of Sorting Assistant. In the year 1983, the respondents department introduced One Time Bound Promotion Scheme vide letter dated 17.12.1983 effective from 30.11.1983 for placement of the officials who had completed sixteen years of service without any promotion into the next higher grade and as per this Scheme, officials who have completed sixteen years of service were allowed next higher grade but the applicant was not allowed next higher grade for which applicant requested the respondents but his request was not duly considered and <sup>was</sup> rejected. Thereafter the applicant filed OA No. 46/1991, which was decided by the Tribunal vide order dated 22.11.1994. The copy of the same is annexed as Annexure A/3. The concluding para of the order reads as follows:-

" In the circumstances of the case, the OA succeeds. The applicant must be given his promotion to the higher scale of pay in the T.B.O.P. Scheme from the date when it became due to him as per prescribed procedure and give him the ante-date of seniority in the TBOP LSG grade in the light of our observations. All consequential benefits of salary etc. will also be given from such date to be determined."

There will be no order as to costs."

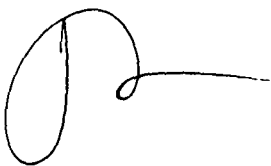


3. The case of the applicant is that as against such order passed, he filed a Review Application seeking certain clarifications, which was decided vide order dated 7.6.1996 and thereafter he filed a Contempt Petition for non-compliance of the order passed by the Tribunal and during the pendency of the Contempt Petition, the applicant was allowed higher scale vide order dated 20.11.1996 w.e.f. 01.02.1997 instead of 30.11.1983. The Contempt Petition was subsequently dismissed. On the representation made by the applicant against the non payment of the higher scale w.e.f. 30.11.1983, the respondents passed an order dated 27.2.1998 (Annexure A/2) whereby the representation of the applicant was rejected.

4. Heard the arguments of the learned counsel for the parties.

5. The learned counsel for the respondents at the outset has raised the plea of limitation urging therein that the present application is barred by limitation. His contention is, that if at all the applicant had felt aggrieved by the order of the respondent dated 27.2.1998 (Annexure A/2), he should have filed the OA within a period of one year as prescribed u/s 21 of the Administrative Tribunal's Act. The applicant had forfeited the right to enforce the remedy.

To counter this argument, the learned counsel for the applicant has stated that the respondents vide their letter dated 30.7.2002 (Annexure A/1) had again intimated him regarding rejection of his representation. So this has given him a new cause of action. But the learned counsel for the respondents has vehemently contended that in such intimation i.e. by Annexure A/2, the respondents have simply reiterated the order earlier passed by

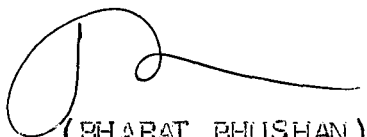


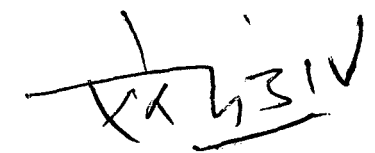
them vide letter dated 27.2.1998 and that no fresh decision has been taken by them. As such this intimation does not extend the limitation by any stretch of imagination.

6. We have <sup>bestowed</sup> ~~bestowed~~ our careful thought to the rival contentions. In our view, the applicant has slept over the matter for a period of about five years before he approached the Tribunal. When the representation made by him was rejected as long<sup>back</sup> as on 27.2.1998, it is not understood as to what prevented him from approaching the Tribunal immediately. The Apex Court in Ex. Capt. Harish Uppal vs. Union of India & Others JT 1994(3)SC 126 has held as under:-

"Writ Petition - Laches - Parties should pursue their rights and remedies promptly and not sleep over their rights- if they choose to sleep over their rights and remedies for an inordinate long time, the Court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of the Constitution of India - Petition dismissed."

7. In view of the law on the point and inordinate unexplained delay on the part of the applicant in approaching the Court, we find that this OA needs to be dismissed <sup>at the</sup> ~~on the~~ threshold <sup>on the basis of</sup> ~~out of~~ limitation. Hence the same is dismissed. No order as to costs.

  
(BHARAT BHUSHAN)  
MEMBER (J)

  
(A.K. BHANDARI)  
MEMBER (A)

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