

Date of Decision: 9.1.96.

OA 9/96

Jaswant Singh

... Applicant.

Versus

Union of India and others

... Respondents.

CORAM:

HON'BLE MR. GOPAL KISHNA, VICE CHAIRMAN

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

For the Applicant

... Mr. S.Kumar

For the Respondents

... —

O R D E R

PER HON'BLE MR. O.P. SHARMA, MEMBER (A)

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri Jaswant Singh has prayed that the respondents may be directed to consider the case of the applicant for promotion to the post of TTS Group-B against the vacancies of 1982 after bifurcating the vacancies yearwise against SC category while considering seniority position and that necessary consequential benefits may also be given to the applicant. He has further prayed that order dated 24.10.94 (Ann.A-1), passed by respondent No.2, by which his representation dated 24.12.93 was rejected, may be quashed with all consequential benefits. His alternative prayer is that the complete proceedings of the DPC and the review DPC for the year 1982 may be summoned by the Tribunal in the interest of justice.

2. The applicant's case is that he was initially appointed on the post of Telegraphist on 3.2.67 and thereafter he earned his further promotions. In 1974, he entered the feeder cadre of TTS Group-C and is at present holding the post of TTS Group-B scale Rs.2000-3500 (EP). Earlier, when he was eligible for promotion to the post of TTS Group-B, a panel was prepared in 1982. The applicant was in the zone of consideration for the said post in 1982. He belongs to an SC community. However, his name was not included in the SC category while preparing details for promotion to the said post in 1982. Three persons junior to the applicant, belonging to SC category, were selected for promotion to the post of TTS Group-B on the basis of the panel prepared in 1982. Two of these persons have been impleaded as respondents in the present application. Vacancies of the year 1983 were bunched irregularly with those of the year 1982 and this resulted in enlargement of the zone of consideration and thereby inclusion of names of candidates not entitled for inclusion in the normal or even in the extended zone of consideration i.e. five times of the

vacancies of 1982. The applicant, having been ignored for promotion, made a number of representations but it was his representation dated 24.12.93 which evoked response from the authorities. Representation dated 24.12.93 is at Annexure A-4 and the reply thereto is at Annexure A-1 dated 24.10.94, in which it is stated that the case of the applicant's promotion against the vacancies of 1982 had been considered by the review DPC held on 21.10.94 but on the basis of overall assessment of his service records, his name cannot be included in the select panel of the year 1982. The applicant's grievance is that it was due to the bunching of the vacancies of the year 1982-83 that his case could not be considered properly due to enlargement of the zone of consideration.


3. During the arguments, the learned counsel for the applicant drew attention to representations Annexure A-4 dated 24.12.93 and Annexure A-5 dated 3.2.95. The latter is in reply to Annexure A-1, by which his representation at Annexure A-4 was rejected by the respondents. He stated during the arguments that he had made a number of representations earlier also but the respondents had chosen to reply only to the representation Ann.A-4 dated 24.12.93. He argued that his case was well within the limitation period inasmuch as a reply on merits had been received by the applicant to his representation dated 24.12.93 only on 24.10.94, and the OA had been filed on 14.12.95.

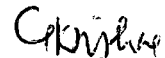
4. We have heard the learned counsel for the applicant and have gone through the material on record.

5. The main reason given by the applicant for his non-promotion on the basis of the selection made during 1982 is that there was bunching of vacancies of 1982~~83~~ due to which the zone of consideration was enlarged and, therefore, he could not be included in the select panel. In the representation Ann.A-4 dated 24.12.93, however, there is no mention of this ground or grievance of the applicant. Ann.A-1 dated 24.10.94 is only a reply to the representation dated 24.12.93. The applicant cannot, therefore, argue that since the respondents have chosen to reply to his representation now, limitation will start from the date of receipt of reply to representation Ann.A-4 dated 24.12.93 because the ground on which the case is based was not mentioned in Ann.A-4 dated 24.12.93. Even otherwise the applicant has not shown that he made any representation between 1981-93, prior to making of representation Ann.A-4 dated 24.12.93. Of course, the applicant has stated in the OA that representations were made earlier also, prior to the representation dated 24.12.93, but no such representation has been annexed to the OA. Apparently, the applicant chose to remain silent for a period about

11 years, We are of the view that the applicant cannot choose to make a representation at any stage after a lapse of so much time and then plead that limitation should start from the date on which reply to such a representation was received.

6. In these circumstances, we are of the view that this application is hopelessly time barred and it is, therefore, rejected at the admission stage.


(O.P. SHARMA) -
MEMBER (A)


(GOPAL KRISHNA).
VICE CHAIRMAN

VK