

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of order 19.5.95

OA 149/95

Shri O.P. Sharma S/o Suraj Bhan Sharma  
Aged 54 years, working as Superintendent  
I/C, Central Telegraph Office, Kota.

... Applicant

VERSUS

1. Union of India, through Secretary,  
Government of India, Department of  
Telecommunications, Ministry of  
Communication, New Delhi- 1.
2. The Director General Telecommunication,  
Telecom Commission, Sanchar Bhawan,  
Ashoka Road, New Delhi.
3. The General Manager (Telecom (East),  
Jaipur.

... Respondents

CORAM

Hon'ble Mr. O.P. Sharma, Member (Administrative)  
Hon'ble Mr. Rattan Prakash, Member (Judicial)

For the Applicant --- Mr. R.P. Pareek  
For the Respondents ... ---

O R D E R

PER HON'BLE MR. RATTAN PRAKASH, MEMBER (JUDICIAL)

Applicant Shri O.P. Sharma herein has approached the Tribunal u/s 19 of the Administrative Tribunals Act, 1985, to seek the following reliefs:-

- "(i) That by an appropriate order the Hon'ble Tribunal may direct the respondents to fix the pay of the applicant at par with that of Shri N.S. Shah, Superintendent I/C, C.T.O. Rajkot, (Junior to the applicant) w.e.f. the date of regular promotion in TTS Group 'B' Cadre and pay fixed at the stage accordingly and also allow arrears thereon. The impugned order dated 15.6.94 Annexure A-1 be ordered to be quashed.
- (ii) To direct respondents to pay all benefits enjoyed by Shri N.S. Shah including pay & allowances during his officiating period as TTS Group 'B' to the applicant.
- (iii) To grant such other relief as may be deemed proper by the Hon'ble Tribunal.

...2/-

2. The facts of this application lie in a brief compass. The applicant coming to know that one Shri N.S. Shah working as Superintendent, CTO Rajkot, is drawing higher pay than the applicant, made a representation on 10.2.94 to respondent no. 2, The Director General Telecommunication, New Delhi, asking for his pay to be stepped up to that of Shri N.S. Shah, his junior. The case of the applicant is that the applicant was promoted to TTS Group 'B' cadre on 30.4.90 and his junior, Shri N.S. Shah, was promoted on 11.2.91 yet because Shri N.S. Shah officiated in the TTS Group 'B' cadre for 10 years & 212 days, his pay was fixed at the stage of Rs. 2675/- and that of the applicant at Rs. 2240/- on regular promotion. This anomaly having been not resolved even after his aforesaid representation, he has been constrained to file this application to claim the aforesaid reliefs.

3. We have heard the learned counsel for the applicant at the admission stage itself and perused the pleadings and documents relied upon by the applicant's counsel.

4. It is vehemently contended by the learned counsel for the applicant that this application should be admitted and the applicant should be granted the relief claimed for by him in the OA. It is urged that the matter of seniority of the applicant vis-a-vis his junior, Shri N.S. Shah is undisputable, yet his junior's pay has been fixed more than that of the applicant even though the applicant was promoted on regular basis in the Cadre of TTS Group 'B' w.e.f. 30.4.90, as against Shri N.S. Shah who was promoted w.e.f. 11.2.91. He claims that this action of the respondents in denying the benefit of stepping up of his pay with that of his junior, Shri N.S. Shah, is illegal, arbitrary,

2

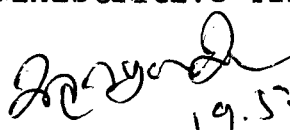
capricious and against the spirit of law and the applicant should be granted the relief. On the point of limitation, it has been urged by the learned counsel for the applicant, Shri R.P. Pareek, that the application has been filed in time on 12.5.95 i.e. within one year of the order of the respondents dated 9.7.94 (Annexure A-1) whereby the applicant's representation dated 10.2.94 was rejected.

5. We have given anxious thought and consideration to the contentions raised by the learned counsel for the applicant. It is undisputable from the documents filed by the applicant, ~~it appears undisputable~~ that the applicant has been senior to Shri N.S. Shah. However, the applicant has failed to indicate as to on which exact date his junior, Shri N.S. Shah, was appointed on officiating basis in the TTS Group 'B' cadre. The applicant has simply indicated in the comparative statement pay drawn by him and Shri N.S. Shah and enclosed as Annexure A-3; that Shri N.S. Shah had worked on officiating basis in TTS Group 'B' Cadre for <sup>a</sup>total period of 10 years and 212 days i.e. till Shri N.S. Shah was given regular promotion to TTS Group 'E' cadre on 11.2.91. Accordingly even if for ~~arguments sake~~ 10 years period is ~~counted~~ when Shri N.S. Shah was given ad hoc/officiating promotion as TTS Group 'B' cadre, the cause of action to the applicant, Shri O.P. Sharma, arose as early as in the year 1981. From the pleadings and documents filed by the applicant, it is clear that the applicant, Shri O.P. Sharma, did not agitate the matter of giving Shri N.S. Shah officiating promotion to the post of TTS Group 'B' cadre from 1981 till 10.2.94 when he made the first representation to the Director General Telecommunications, New Delhi,

9

The law laid down by Hon'ble the Supreme Court in Bhoop Singh's case (supra) applies with full force in this case. The citations relied upon by the learned counsel for the applicant are of no avail. Even the judgment of Hon'ble the Supreme Court in A. Sagayanathan & Others Vs. Divisional Personnel Officer, 1992 Supp.(2) SCC 172, is of no help to the applicant, since it is a judgment given by Hon'ble the Supreme Court on 26.10.90 whereas Bhoop Singh's case has been decided by Hon'ble the Supreme Court on 29.4.92. In view of the latest law laid down by Hon'ble the Supreme Court in Bhoop Singh's case (supra), the fate of the applicant is sealed, he having ~~been~~ failed to approach the Tribunal within time, his application is barred by the mandatory provisions laid down u/s 21 of the Administrative Tribunals Act, 1985.

6. For all the aforesaid reasons, we are of the view that the application filed by the applicant, Shri O.P. Sharma, is hit by the bar of limitation u/s 21 of the Administrative Tribunals Act, 1985, and is hereby rejected.

  
19.5.95  
(RATTAN PRAKASH)  
MEMBER(J)

  
(O.P. SHARMA)  
MEMBER(A)

99

vide Annexure A-4. It means that for almost 13 years, the applicant kept silent and did not take any action whatsoever or approached any forum to get his grievance redressed, knowingly that the applicant as well as Shri N.S. Shah, his junior, belong to All India Service Cadre with transfer liability all over India. In fact incumbent upon the applicant to have approached the Tribunal within the period of limitation as available to him under the Indian Limitation Act and before the enforcement of the Administrative Tribunals Act, 1985. Even after the enforcement of the Administrative Tribunals Act w.e.f. 1.11.85, the applicant should <sup>have</sup> approached the Tribunal within the period prescribed u/s 21 (2) of the Administrative Tribunals Act, ~~But he~~ did not approach the Tribunal also. He further kept silent till 10.2.94, when he made the first representation, seeking stepping up of his pay w.e.f. 11.2.91 <sup>also</sup> equal to his junior, Shri N.S. Shah; He could have approached the Tribunal within one year from 11.2.91, the date on which his junior, Shri N.S. Shah was fixed at the pay of Rs. 2675/- but he did not take any steps. The law with regard to approaching the Tribunal/Court within <sup>period</sup> the prescribed under law has been laid down by Hon'ble the Supreme Court in the case of Bhoop Singh Vs. Union of India & Others reported in 1992(3)SC 322. <sup>as under:-</sup>

"Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim, If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly."

So

...5/-