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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 13.3.97

OA 376/95

S.M.Sharma, Retired JTO from Setelite Maintenance, Jaipur.

... Applicant

Versus

1. Union of India through the Secretary, Telecommunication, New Delhi.
2. Chief General Manager Telecom, Rajasthan Circle, Jaipur.
3. Director Telecom, MTCE, Jaipur.
4. GMTD, M.I.Road, Jaipur.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR.O.P.SHAFMA, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.P.V.Calla

For the Respondents

...

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, S.M.Sharma, has filed this application u/s 19 of the Administrative Tribunals Act, 1985 (for short, the Act), seeking a direction to the respondents to provide Lower Selection Grade (for short, LSG) to him w.e.f. 28.10.72, the date on which he was working as Telephone Operator (for short, TO) and the LSG was provided to his juniors, as also for a direction to fix his pay in the grade of Engineering Supervisor/JTO treating him in the LSG w.e.f. 28.10.72 and pay the arrears. He has also sought a direction for revision of his pension accordingly.

2. The case of the applicant is that he entered in service as TO in the year 1956. The applicant appeared in the competitive examination for the post of Engineering Supervisor (now designated as JTO). He qualified in the examination and was sent for training. He remained under training from 22.7.72 to 16.11.73 and during this period he was treated as TO and was paid the pay of the post of TO. After successfully completing the training for the post of Engineering Supervisor (JTO) he was appointed as Engineering Supervisor (JTO) on 17.11.73 and he retired on superannuation on 30.11.93. On the formation of Jaipur Phones District, certain employees though junior to the applicant, were granted LSG. Those employees who were senior took the matter to the court of law. However, the DG P&T, New Delhi, vide letter dated 3.4.81, ordered revision and refixation in case of LSG Monitors. The applicant contends that on 22.7.72 his basic pay and that of Shri S.H.Pareek was Rs.181/- p.m. but while the applicant was under training and drawing pay

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in the grade of TO, Shri S.H.Fareek was given LSG i.e. Rs.210/-p.m. w.e.f. 28.10.72, whereas the candidature of the applicant was not considered and he continued in the grade of TO. The applicant made several representations from time to time but no satisfactory response emerged from those representations. The action of the respondents in not providing relief to the applicant on the representations made by him is assailed as being unjust. It is also pleaded that the applicant has been discriminated in the matter of providing LSG.

3. We have heard the learned counsel for the applicant and have carefully perused the records.

4. The grievance of the applicant is that he should have been given LSG w.e.f. 28.10.72 i.e. the date when Shri S.H.Fareek, junior to him, was granted that grade. It is also contended that it was incumbent upon the respondents to grant LSG to the applicant at that point of time while the applicant was under training and the junior to the applicant was fixed in the higher grade. In the representations made by the applicant, on 8.2.83 vide Ann.A-3, on 2.5.93 vide Ann.A-4 and on 10.11.93 vide Ann.A-5, it has been categorically stated that the applicant has been making request for granting proforma promotion as SGTO w.e.f. 28.10.72 and refixation of pay as JE. On 24.9.96, the learned counsel for the applicant sought time to satisfy us on the basis of documents that this is a case of mere fixation of pay and not of promotion. The learned counsel for the applicant has, therefore, produced before us a copy of an order dated 3.7.81, passed by the Assistant General Manager Telecom (Administration), Rajasthan Telecom Circle, Jaipur, which mentions therein the names of officials and the date of their entry as TOs and as LSGs and the date from which notional fixation was admissible to them in the post of LSG (Monitor). This order shows that the officials mentioned therein were granted notional fixation in the post of LSG on dates prior to those on which they had actually entered the post of LSG. From this document he wants to prove that this a case of mere fixation and not of promotion. However, it is borne out by this document that officials named therein were considered by the Departmental Promotion Committee and found fit for promotion to the LSG. This is a case not merely of refixation of pay but it involves the promotion to the post of LSG also and refixation thereafter from a date prior to the date of actual promotion. This refixation was, however, granted to those officials who had actually been promoted to the LSG. It is, therefore, a case of promotion and pay fixation thereafter. The name of the applicant was not included in the list of promotees to the LSG as this fact is borne out by the order dated 3.7.81. The cause of action, therefore, actually accrued to the applicant on 1.6.74, on which date his junior, Shri S.H.Fareek, entered the grade of LSG/promoted as LSG. The contention of the applicant that he could not approach any legal forum for the redressal of his grievance due to the

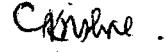
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fact that representations made by him remained under consideration of the department despite the request of the Accounts Officer vide Ann.A-1 dated 27.8.84, is not tenable as repeated representations without yielding any results will not extend limitation. Tribunal cannot condone delay in respect of grievances arising three years immediately preceding 1.11.85 and limitation cannot extend by making repeated representations. The authority, therefore, reported in 1995 (2) ATJ 569, M.R.Gupta vs. Union of India and others, relied upon the learned counsel for the applicant, is of no help to him as it is not merely a matter of the applicant's refixation of pay. The grievance of the applicant having arisen sometime in the year 1974, we have no jurisdiction to entertain the present application, which is hit by Section 21(2) of the Act.

5. In the result, this application is dismissed at the stage of admission.


(O.P. SHARMA)

ADMINISTRATIVE MEMBER


(GOPAL KRISHNA)
VICE CHAIRMAN

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