

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.
O.A.No.380/96

Date of order: 12.7.96

Subhash : Applicant

Vs.

Union of India & Ors. : Respondents

Mr.V.K.Mathur : Counsel for applicant.

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

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

PEP HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN.

Applicant Subhash, in this application under Sec.19 of the Administrative Tribunals Act, 1985 (for short the Act), has claimed a direction to the respondents to grant to him the benefits of promotion and upgradation in the highly skilled Grade-I w.e.f. 1.1.1986.

2. We have heard the learned counsel for the applicant and have perused the record.

3. The grievance of the applicant is that persons junior to him namely Shri Hari Singh and Shri Rajendra were promoted and upgraded on the post of Turner Keeper Smith and Tube Worker in highly skilled Grade-I respectively w.e.f. 1.1.1986 but the applicant was not granted promotion to the next higher post in the year 1985 and 1986 and no trade test was taken by the respondents in time despite the fact that two vacant posts were available after the promotion of S/Shri Devi Lal and Bhanwar Singh. The applicant made representations on 8.12.86 vide Anxx.A3 and 17.1.96, vide Anxx.A5, but instead of granting promotion to him w.e.f. 1.1.1986, the respondents promoted him to the highly skilled Grade-II by order dated 25.8.1989, Anxx.A4. It appears that persons junior to the applicant were promoted to highly skilled Grade-I w.e.f. 1.1.1986 prior to 8.12.86, when the applicant had agitated his grievance to the concerned authority by making a representation vide Anxx.A3, which has not been decided so far.

(3)

The learned counsel for the applicant has stated that since denial of promotion entails loss of pay every month, ^{as} also that such ^a matter is a continuing wrong ~~and~~, there is no limitation prescribed for filing an application to have the grievance redressed. Relyance have been placed by the learned counsel for the applicant on an authority 1995(2) ATJ 567 M.R.Gupta Vs. Union of India (Supreme Court) in which their lordships of the Hon'ble Supreme Court has laid down that, the grievance that the pay fixation was not in accordance with the rules was the assertion of ^a continuing wrong against him which gave rise a recurring cause of action and a fresh cause of action in this regard arises everymonth when he is paid salary on the basis of wrong computation contrary to rules. But it has been made clear that it is to the limited extent of pay fixation that the original application cannot be treated as time barred since it is based on a recurring cause action. Since the applicant was not promoted some time before 8.12.1986 and the applicant was not subjected to the trade test, such matter cannot give rise to a recurring cause of action and in our view the applicant should have presented an application within one year of the accrual of the cause of action to him as envisaged by Sec.21 of the Act and if the applicant had made a representation on 8.12.1986, as stated by him, he should have filed such an application within 18 months of the making of the representation. The present application has been filed 10 years after the cause of action arose to the applicant. This application is, therefore, time barred and it is hereby dismissed at the stage of admission.

O.P.Sharma
(O.P.Sharma)
Member (Adm.)

Gopal Krishna
(Gopal Krishna)
Vice Chairman.