

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

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Original Application Number : 325 OF 1998

Date of Decision: This is the 5th day of July, 2002.

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The Hon'ble Mr. A.P. Nagrath, Administrative Member
The Hon'ble Mr. J.K. Kaushik, Judicial Member

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Vijay Singh Dharwal S/o Late Shri Ram Dayal
aged 54 years, Caste Somvanshi,
Resident of Mohalla Mehtab Singh Ka Nohra,
Alwar, Designation HSG-II, PA ,
Alwar Head Post Office, Alwar.

.....Applicant.

By Advocate Mr. Y.C. Joshi.

VERSUS

1. Union of India through Secretary,
Ministry of Communications,
Department of Posts,
Dak Tar Bhawan,
Government of India, New Delhi.1.

2. Chief Post Master General,
Rajasthan Circle,
Jaipur-7.

3. Senior Superintendent of Post Offices,
Alwar Division, Alwar.

.....Respondents.

By Advocate Mr. Arun Chaturvedi.

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O R D E R

[Per Mr.A.P.Nagrath]

In this Original Application filed under Section 19 of
the Administrative Tribunals Act, 1985, applicant has prayed
for the following reliefs :-



- "(i) That the Hon'ble Tribunal be pleased to allow this O.A. with cost including reserved cost of Rs. 5000/-.
- (ii) That the Hon'ble Tribunal be pleased to issue writ in the nature of mandamus or certiorari, order or direction commanding the respondents to promote the applicant against the declared vacancies of 1977 result of which was declared on 12th May, 1979, from the Post of Postal Clerk to Lower Selection Grade for short L.S.G. scale of pay 425-640 (III pay commission scale) and assign due seniority against the declared vacancy of 1977 as L.S.G. in the circle gradation list, pay all the consequential differential arrears of pay and emoluments and consequential promotions at due time from L.S.G. to Higher Selection Grade-II and Higher Selection Grade-I.
- (iii) Through an appropriate writ of certiorari, order or direction quash the words quote ;
- "Their actual appointment in the LSG Cadre will be considered subject to their selection by the Departmental Promotion Committee on the basis of seniority positions in the circle gradation list of the respective cadre". unquote, as mentioned in PMG Rajasthan Circle letter No. R&E/X-26-5/Exam. 77-78 dt. 23.5.80 marked as Annexure A-3 as violative of rule 272-A and Rule 279/1 of P&T Manual Volume IV.
- (iv) Any other writ or direction deemed just and equitable in the facts, circumstances of the case and judicial analysis of the rules cited may kindly be passed as per dictates of the judicial wisdom and good conscience."

2. It is seen from the above that applicant is seeking promotion w.e.f. 1977 to Lower Selection Grade (LSG) while he was actually promoted in the year 1983. It is apparent on the very face of it, this application is hopelessly barred by time. The relief is being claimed after a period of almost 21 years from the date when the applicant claims the cause arose in his favour. It also relates to the period much before a period of three years before setting up of the Central Administrative Tribunal.

3. The applicant, in Para 3 of the O.A. has given a declaration that the Application is within the Limitation




period prescribed under section 21 of the Administrative Tribunals Act, 1985. This averment is an indication of the assertion of the applicant that he has filed this application within limitation but, actually it is not so. Section 21 of the Administrative Tribunals Act gives power to the Tribunal to condone the delay, if sufficient cause is shown i.e. in case an application for condonation of delay is filed along with the O.A. The Sec. 21 of the Act of 1985 reads as under :-

" Limitation.--(1)A Tribunal shall not admit an application--.

- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
 - (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.
- (2) Notwithstanding anything contained in sub-section (1), where -
- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
 - (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

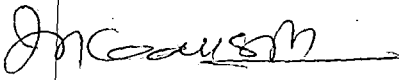
the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), or sub-section (1) or within a period of six months from the said date, whichever period expires later.

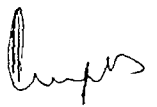
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section
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(2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

4. In this case, the grievance of the applicant relates to the period many years before the period of 3 years as provided in section 21 (2) (a) of the Act. Thus, the same is hopelessly barred by limitation. Consequently, this application cannot be entertained by this Tribunal. In the case of Shri Ramesh Chand Sharma etc. Vs. Udham Singh Kamal & Ors. reported in 2000 (1) ATJ 178, Hon'ble the Supreme Court had observed that the O.A. filed before the Tribunal after expiry of three years, could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21 (1) of the Administrative Tribunals Act. A reliance has also been made to the case of Secretary to the Government of India and ors. Vs. Shivram Mahadu Gaikwad, reported in 1995 Supp. (3) SCC 231. The legal position is well established that in a case which is barred by limitation, there is no requirement to go into the merits of the application. We, therefore, do not consider it necessary to go into the merits of this application.

5. This Original Application is dismissed on the ground of limitation as the same is hopelessly barred by time. No order as to costs.


[J.K. Kaushik]
Judl. Member


[A.P. Nagrath]
Adm. Member

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