

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 13/7/2001

OA No.81/1999

Munshi Lal s/o Shri Laxman Prasad r/o H.No. 26, Roop Nagar-B, Shirshi Road, Bhankrota, Jaipur, at present working as Regular Mazdoor in Telecom Department, Telecom Distt. Jaipur.

..Applicant

Versus

1. Union of India through the Secretary, Ministry of Telecommunication, New Delhi.
2. The Superintending Engineer (E), Telecom Electrical Circle, C-137, Dayanand Marg, Tilak Nagar, Jaipur.
3. Executive Engineer, Telecom Electrical Division, C-54, Priyadarshi Marg, Tilak Nagar, Jaipur.

.. Respondents

Mr. Karan Pal Singh, counsel for the applicant

Mr. R.G.Chaudhary, proxy counsel to Mr. Bhanwar Bagri, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member

In this Original Application filed under Action 19 of the Administrative Tribunals Act, 1985, the applicant has made the following prayers:-

- "i) direct the respondents to make the applicant regular since 1985 when his juniors were considered;
- ii) award all the consequential benefits to the humble applicant,
- iii) issue any other appropriate order or direction which the

Hon'ble Tribunal deems just and proper.

2. Facts of the case, as stated by the applicant, are that the applicant was initially appointed on daily wages by order dated 21.8.1981. By an order dated September, 1984 he was called for interview for regular selection as Khalasi. It is stated that his juniors Shri Vinod Kumar Jain, Jaswant Singh, Jamil Ahmed and Jugal Kishore were made regular and the applicant was not considered. He has been made regular w.e.f. 18.7.1992. He submits that after making representation, he sent a legal notice on 6.11.1998, but no relief has been accorded to him. His plea is that he is entitled to regularisation from the year 1985 when his juniors were regularised.

3. Considering the date w.e.f. which the relief has been sought by the applicant, the question which arises for consideration is whether the application is within limitation period as prescribed under Section 21 of the Administrative Tribunals Act, 1985. Section 21 provides that the Tribunal shall admit an application, if the same has been filed within one year from date of order by which applicant is aggrieved. In this case, the applicant seeks regularisation w.e.f. 1985, though he has been regularised w.e.f. 1992. When the case was taken up for admission, the learned counsel for the applicant stated that the applicant has been making repeated representations, but got no response from the respondents.

4. The respondents in their reply to the OA have raised preliminary objections on the ground that this application is thoroughly misconceived as the applicant has sought relief with reference to the selection made on 20.8.1985. Thus this OA is hopelessly barred by limitation.

5. In UT Daman Diu and Ors. v. R.D.Valand, 1996 (1) SCC



(L&S) 205 Hon'ble the Supreme Court has held that "the Tribunal fell in patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation was not come in his way".

6. In State of Karnataka and ors. v. S.M.Kotrayya and ors., 1996 SCC (L&S) 1488, the Apex Court observed that what is required to be explained to overcome limitation is as to why remedy for redressal could not be availed of before expiry of the period prescribed under sub-section (1) and (2) of Section 21 of the Act. In view of these pronouncements, the legal position is clear that if the matter is not agitated within the limitation period prescribed, no relief can be granted.

7. The learned counsel for the applicant placed reliance on the cases of Ram Kumar and ors. v. State of Punjab and ors., 1995 (5) SLR 792 and M.R.Gupta vs. Union of India and ors., (1995) 5 SCC 628. We have perused these judgments. Hon'ble the High Court of Punjab and Haryana, in Ram Kumar and ors., had referred to the case of Jagdish Lal v. State of Haryana, 1997 (4) SLR 333 (SC) wherein the Apex Court had observed that there is nothing in the rules which permits the respondents to make successive representations for promotion. The matter in that case was seniority given to private respondents retrospectively and in the facts and circumstances of that case the Supreme Court has observed that it has been repeatedly held, the delay disentitles the party to the discretionary relief under Article 226 or 32 of the Constitution. The Apex Court further observed that the appellants were sleeping over the rights for long and elected to awake when they had the impetus from Vir Pal Chauhan and Ajit Singh's ratio. These observations of Hon'ble the Supreme Court as referred to by the High Court, in fact, go against the case of the applicant. In the other case i.e. M.R.Gupta (cited supra) the matter before the Apex

Court was whether in the matter of fixation of pay limitation would come in the way. It was held that such a grievance is a continuing wrong giving rise to a recurring cause of action every month on the occasion of payment of salary. In the instant case, it cannot be said that there is a recurring cause of action. The order of regularisation is a one time action and any person aggrieved is expected to seek legal remedy within the time provided in the Act. The applicant in this case slept over a long period and has filed this application only in the year 1999. Therefore, this application is hopelessly barred by limitation and is liable to be dismissed.

8. We, therefore, dismiss this application as hopelessly barred by limitation. No order as to costs.

Arvind
(A.P.NAGRATH)

Adm. Member

S.K. Agarwal
(S.K.AGARWAL)

Judl. Member