

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 4296/2013

And

OA No. 18/2014

Order reserved on : 02.02.2016

Order Pronounced on: 26.02.2016

Hon'ble Mr. A. K. Bhardwaj, Member (J)

Hon'ble Mr. V.N. Gaur, Member (A)

OA No. 4296/2013

Indu Prakash Badola,
s/o Sh. J.P.Badola,
r/o Type-IV No.5 Staff Quarters,
G.B.Polytechnic, Okhla,
New Delhi-110020.

- Applicant

OA No. 18/2014

Brij Kishore Gupta
S/o Late Sh. B.D.Gupta,
R/o House No.213, Pacific Apartments,
Sector-10, Plot no.39, Dwarka,
New Delhi-110075.

- Applicant

(By Advocate: Sh.Sourabh Ahuja)

Vs.

1. GNCT of Delhi
Through its Chief Secretary,
Players Building,
IP Estate,
New Delhi-110002.
2. Principal Secretary,
Department of Training and Technical Education
Govt. of NCT of Delhi
Muni Maya Marg,
Pitampura,
Delhi.

3. Principal
GB Pant Polytechnic
Govt. of NCT of Delhi
Okhla, New Delhi-110020.
4. AICTE
Through its Member Secretary,
7th Floor, Chanderlok Building,
Janpath, New Delhi.
5. Secretary,
Ministry of Human Resource Development,
Department of Education,
Union of India,
North Block, New Delhi.
6. UPSC
Through its Chairman,
Shahjahan Road,
New Delhi.

- Respondents

(By Advocate: Sh.B.N.P.Pathak and
Ms. Puja Sarkar for Sh. Anil Soni for resp. No.4)

ORDER

Hon'ble Shri V.N.Gaur, Member (A)

The OA Nos. 4296/2013 and 18/2014 were heard together as the learned counsels agreed that the issues involved were identical. Accordingly, the two OAs are being disposed of by this common order. OA No.4296/2013 has been taken up as the lead case.

2. The applicant in OA No.4296/2013 joined as Demonstrator in the Directorate of Training and Technical Education on 31.12.1975 on temporary basis. Following the implementation of the Madan Committee's report in 1987 the post of Lecturer

became the lowest post in the teaching cadre. For the purpose of absorption in the Lecturer's grade the existing Demonstrators, Junior Instructors etc. were granted one time relaxation in the qualification by the Ministry of Human Resource Development letter dated 07.03.1989. It was provided that Demonstrators, Juniors Instructors etc. in the Polytechnics under respondent no. 1 who possessed alternative qualification already approved by AICTE i.e., Diploma in appropriate branch of Engineering plus Diploma in Technical Teaching from Technical Teachers Training Institute (TTTI) and five years teaching/professional experience, shall be considered for absorption in the post of Lecturer. However, the incumbent will not be entitled for any further promotion until he/she acquired requisite qualification of degree in the relevant branch of engineering as the notified Recruitment Rules. The applicant also was upgraded as Lecturer w.e.f. 28.06.1991 on ad hoc basis once he successfully completed TTTI diploma. Later, the applicant acquired the minimum qualification of B.E. degree, as prescribed in the recruitment rules, on 20.03.1996. On 17.08.1999 the applicant was regularised on the post of Lecturer w.e.f. 20.03.1996. The applicant further improved his qualification by obtaining Masters in Technology (Environmental Science and Engineering) degree from a recognized university in September 2005. He was granted senior

scale w.e.f. 20.03.2002 vide order dated 07.04.2006 and selection grade w.e.f.. 20.03.2007 vide order dated 01.02.2010. His pay was fixed in PB-4 grade pay of Rs.9000/- w.e.f. 20.03.2010 in the year 2012. The applicant has challenged a letter issued by the Principal, G.B.Pant Polytechnic, Okhla, New Delhi, a copy of which has been placed on record as Annex 1 (colly), bearing three dates, 26.06.2013 on the top, 26.11.2013 below the signature of the Principal and another date 25.11.2013 on the body of that letter. It refers to a letter Dy. No.2003 dated 08.11.2013 of the applicant and states that his past service was not in accordance with the guidelines of AICTE and hence he was not eligible for counting it as qualifying service for Career Advancement Scheme. The contents of the letter are reproduced below:

*"Govt. of NCT of Delhi,
GB Pant Polytechnic,
Okhla, New Delhi-20.*

F.No.PF/97/585/Admn/GBPP/986

dt. 26.6.13

To

*Sh. I.P.Badola Lal (Auto Engg.)
GB Pant Polytechnic
Okhla, New Delhi.*

Sub: Reg. Counting of Past Service

Sir,

Reference to your Letter's Diary No.2003 dated 8/11/13, it is to inform you that as per Director's remarks "your past service is not in accordance of guidelines of AICTE". Hence, you are not eligible for counting of qualifying service under CAS.

This is for your information.

Yours faithfully,

Sd/-

*(A.V. PATIL)
PRINCIPAL
26.11.13*

*New Delhi
25/11/13"*

The representation of the applicant dated 08.11.2013 has not been placed on record.

3. Learned counsel for the applicant has argued that the applicant was appointed on ad hoc basis to the upgraded post of Lecturer in 1991 on the basis of one time exemption given by the Ministry of Human Resource Development in favour of the alternative qualification of a Diploma in the concerned subject and a Diploma granted by the TTTI. That exemption was valid only for the purpose of absorption. A copy of the letter 05.02.1993 appointing the applicant as ad hoc Lecturer from 28.06.1991 was also endorsed to Secretary, UPSC stating that the proposal for regularisation of the applicant would be sent in due course. Therefore, logically the services of the applicant from 1991 till his regularisation in 1996 which was without any break, had to be counted for the purpose of Career Advancement Scheme and the dates from which he has been given senior scale, selection grade etc. have to be preponed. In this context, he referred to the order of this Tribunal in OA No.3018/2012 wherein a view was taken that once the Ministry of Human Resource Development and the Govt. of NCT of Delhi granted one time relaxation in the qualification for the purpose of absorption in the post of Lecturer, it was incumbent on the respondents to

have included this provision in the Recruitment rules notified in 11.10.1993. The respondents in that case were directed to amend the Recruitment Rules to include the alternative qualification for the post of Lecturer and regularise the services of the applicant with all consequential benefits except promotion.

4. Learned counsel for the respondents raised the preliminary objection of delay and laches and submitted that on merits also the applicant did not have a case as he did not possess the prescribed qualification for the post of Lecturer on 28.06.1991 when he was appointed on ad hoc basis. The respondents had rightly regularised the services of the applicant from the date of his obtaining the minimum qualification prescribed in the RRs.

5. We have carefully considered the submissions made by the learned counsels and perused the record. It is observed that the applicant was appointed as Lecturer on ad hoc basis on 28.06.1991 on the basis of one time relaxation given by the Ministry of Human Resource Development for the existing Demonstrators, Junior Instructors etc in the Polytechnics. Though there is an endorsement on the appointment letter of the applicant to the Secretary, UPSC with a remark that a proposal would be sent for regularisation of the applicant in due course, it is not known whether such a proposal was actually sent by the

respondents to UPSC and if yes, what was the outcome of the same. However, it is an admitted fact that the applicant acquired the prescribed qualification of Degree in Engineering only on 20.03.1996 and his services were regularised as Lecturer vide letter dated 17.08.1999 with effect from 20.03.1996. The content of the letter dated 20.03.1996 reads as follows:

“In pursuance of Madan Committee’s recommendations and consequent upon the recommendations of the Union Public Service Commission, Lt. Governor, Delhi is pleased to regularise the following officers (Presently working on adhoc basis) against the upgraded posts of Lecturer in the pay scale of Rs.8000-275-13500 (Revised) under the Directorate of Training and Technical Education, New Delhi:

<u>Sl.No.</u>	<u>Name & Designation</u>	<u>Date of regularisation</u>
1.	Sh. I.P.Badola, Lecturer (Mechanical Engg.)	20.3.96
2.	Sh. B.S.Raghav, Lecturer (Civil Engg.)	4.4.97
3.	Sh. V.V.Bainy, Lecturer (Mechanical Engg.)	4.4.97

(V.K. Jain)
Joint Secretary (T&TE)”

6. For the applicant this could have been a cause of action for asking regularisation of his ad hoc service from 1991 to 1996. There is nothing on record to show that the applicant approached the authorities claiming his regularisation from 1991. Subsequently, he was given senior scale with effect from 20.03.2002 by order dated 07.04.2006, selection grade with effect from 20.03.2007 by order dated 01.02.2010, and re-fixation of pay after 6th Central Pay Commission in PB-4 with effect from 20.03.2010 in the year 2012 but the applicant remained silent and accepted all these upgradations without challenging the dates of these upgradations. From the impugned letter dated

26.06.2013 (?) it can be seen that for counting the past service from 1991 to 1996 he made a representation for the first time on 08.11.2013, which was rejected by the aforementioned impugned letter. We are, therefore, of the view that this OA is badly barred by limitation.

7. Section 21 of the Administrative Tribunals Act, 1985 mandates that an application shall not be admitted by this Tribunal unless the same is within one year from the date on which cause of action had arisen. In **Bhoop Singh vs. Union of India**, AIR 1992 SC 1414, the Hon'ble Supreme Court took a view that lapse of a long and unexplained period of several years cannot be ignored and a petitioner cannot be permitted to move courts of law at his will. Taking a similar view in **Union of India vs. Harnam Singh**, (1993) 2 SCC 162 the Hon'ble Supreme Court said:

“The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to aid of those who sleep over their rights and allow the period of limitation to expire.”

8. In **Ramesh Chand Sharma vs. Udham Singh Kamal**, (1999) 8 SCC 304, it was held that OA filed before the Tribunal after a expiry of three years could not have been admitted and disposed of on merits in view of the statutory provisions contained in Section 21 (1) of the Administrative Tribunal Act., 1985

9. The High Court of Himachal Pradesh in **R.K.Goel vs. State of H.P.**, 2004 (2) SLR 524 (HP) stated that the legislative purpose of prescribing the limitation period in Section 21 of the Act is to ensure that Tribunals are not burdened with stale, old claims and that all such persons who feel aggrieved approach Tribunals within a reasonable time and they do not keep sleeping over long years and approach Tribunals to place their old stale claims at their sweet will. Such a legislative objective of the law makers cannot be defeated and frustrated by adopting a strategy whereby, limitation clause of the Act is technically satisfied. Thus, it is possible that even though the dispute has already become old and stale, say by 10 or 15 years, but a representation is made to settle the old dispute of the vintage of 10 or 15 years and on rejection of such representation by administration, an Original Application has been filed with a claim that the same is within the prescribed limitation period of one year from the rejection letter. The High Court held that the law does not preclude the Tribunal from lifting the veil and going to the substance of the so called final refusal order to find out whether the claim is stale and old and whether the same Original Application suffers from grave unexplained latches. The High Court further held that the Tribunal would be well advised to discourage entertaining such stale claims by dismissing the Application on the ground of latches alone.

10. In the present case, the applicant whose cause of action first arose at least in 1999, if not earlier, did not move a court of law to ventilate his grievance. He does not appear to have even represented to the respondents, though it would not help in overcoming limitation, from 1999 to 20013 regarding counting of his ad hoc service for the purpose of Career Advancement Scheme. He accepted all upgradations with effect from 2002, 2007 and 2012 without counting his past service. Only in the year 2013, i.e., about 14 years from the date the order of his regularisation in 1999 he submitted a representation to the Principal of the Institute where he was working. His OA is also not accompanied by any application for condonation of delay.

11. The facts of the case and the grounds taken in OA 18/2014 are similar to OA 4296/2013 except that period of ad hoc service of the applicant was 06.06.1989 to 09.02.1994 and that he made representations to the Principal in 2012.

12. For the reasons discussed in the preceding paras, we find both the OAs barred by limitation and these are dismissed accordingly.

(V.N. Gaur)
Member (A)

(A.K.Bhardwaj)
Member (J)

‘sd’