

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2654/2010
With
OA No.1711/2013

Reserved on : 04.05.2016
Pronounced on: 09.05.2016

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

OA NO.2654/2010

1. Shri Shiv Narain
Asst. Director(Survey)
S&S-II, Vikas Sadan, DDA
INA Colony, New Delhi.
2. Ram Singh Rajora
Assistant Director (Survey)
DDA, Vikas Sadan
INA Colony, New Delhi.
3. Shri Rajbeer Singh
Surveyor (Narela Project)
11th Floor, Vikas Minar
New Delhi. Applicants

(By Advocate : None)

Versus

1. Delhi Development Authority
Through Chairman
Vikas Sadan, INA Colony
New Delhi
2. Vice Chairman
Delhi Development Authority
Vikas Sadan, INA Colony
New Delhi. Respondents

(By Advocate : None)

OA NO. 1711/2010

1. Shri Shiv Narain
Asst. Director(Survey)
S&S-II, Vikas Sadan, DDA
INA Colony, New Delhi.
2. Ram Singh Rajora
Assistant Director (Survey)
DDA, Vikas Sadan
H.U.P. W., Vikas Minar
DDA, New Delhi. Applicants

(By Advocate : None)

Versus

1. Delhi Development Authority
Through Chairman
Vikas Sadan, INA Colony
New Delhi
2. Vice Chairman
Delhi Development Authority
Vikas Sadan, INA Colony
New Delhi. Respondents

(By Advocate : None)

ORDER

Hon'ble Mr. P.K. Basu, Member (A)

On 21.09.2015, we noted that this matter is pending since 2010 but by of indulgence, hearing was deferred to 28.10.2015. But it was made clear that irrespective of presence of the counsel for the respondents on the next date of hearing the matter would be taken up for disposal. Thereafter, on 28.10.2015 and 22.01.2016 the matter was adjourned on request of both the parties. On 29.04.2016, the matter had to be

postponed because the respondents' counsel misplaced his case-file. Since this is a 2010 matter, i.e., more than six years old and in view of our order dated 21.09.2015, the matter is being disposed of based on the pleadings available on records.

2. The applicants are Assistants Engineer (Survey) in DDA, Respondent No.1 and they are aggrieved by the action of the omission of the respondents not following rules of reservation and the relevant provisions of Office Memorandum and the Constitution of India implementing the reservation policy in the case of the applicants in the matter of considering and promoting them to the posts of Assistant Director (Survey) w.e.f. the due dates on the roster point for reservation in favour of SC/ST. They seek implementation and compliance with the direction and principle given in the order of this Tribunal dated 29.10.2007 in TA No. 12/2007 in the case of **Ram Singh Rajora & Ors. Vs. DDA & Anr.**

In that TA as well, the applicants were Surveyors and had raised grievance of their promotion on consideration under reservation policy for the post of Assistant Director(Survey). The TA had been allowed vide following directions:-

12. TA is accordingly allowed. Respondents are directed to consider the claim of applicant No.3 for promotion as Assistant Director Surveyor by holding a DPC and consider the claims of applicants 1 & 2 for promotion at an appropriate time when the vacancies were

available in accordance with the zone of consideration to be drawn as per the decision of the Apex Court (Supra), which shall be done through a review DPC. Both these directions shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order. In the even the promotions are accorded as per law and instructions, consequences would ensue in law. No. Costs.

3. Before we go into the merits of the case, we have to address the preliminary objection raised in their counter reply dated 10.1.2011 by the respondents that the applicants have not filed the application within the limitation prescribed under Section 21 of the Administrative Tribunal's Act. 1985 and urged that the OA may be dismissed as barred by limitation. In their rejoinder, in reply to the ground of limitation raised by the respondents, the applicants have merely made following statements:-

"It is submitted that the present OA filed by the applicants is within the period of limitation prescribed under Section 21 of the Administrative Tribunal's Act. 1985"

and no further attempt has been made to explain on what ground this claim is being made.

Section 21 of the Administrative Tribunal's Act. 1985 provides:-

"21. 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), of 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 (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

It is clear from the list of dates itself filed by the applicants that cause of action arose some time in 2004 and 2005; even the TA No.12/2007 was disposed of in 2007.

4. The applicants did not choose to approach this Tribunal at that point of time. It seems from the pleadings that they approached National Commission for Scheduled Caste in 2010. Thus, we are of the considered view that indeed there has been delay and the OAs have been filed much beyond the period of limitation as stipulated in the Act and deserves to be dismissed on this ground itself. The OAs are therefore, dismissed as these are hit by limitation. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member A)

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