

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPALL BENCH**

O.A.NO.3520 OF 2014

New Delhi, this the 20th January 2017

CORAM:

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

AND

HON'BLE SHRI K.N.SHRIVASTAVA, ADMINISTRATIVE MEMBER

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Gurdial Singh Saini,

s/o Sh.Gulab Singh Sain, aged 77 years,

House No.730/10,

Naya Bazar, Retd. Supervisor,

Near Mohan Cinema,

Thanesar,

Kurkshetra (Haryana)

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Applicant

(By Advocate:Mr.Nitin Mohan Popli)

Vs.

Secretary,

Department of Posts,

Dak Bhawan,

Parliament Street,

New Delhi

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Respondents

(By Advocate: Dr.Ch.Shamsuddin Khan)

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ORDER

Per Raj Vir Sharma, Member(J):

The applicant retired from Government service on attaining the age of superannuation on 31.12.1994, while working as a Supervisor in Delhi Sorting Division of the Department of Posts. His case is that a Departmental Examination was conducted by the respondent-Department on 30.11.1975 for promotion of the qualified personnel as Lower Selection Grade (LSG) Supervisors (Full-fledged) under the 1/3rd quota. The results of the

Departmental Examination were published in 1976, and he was declared to have qualified therein. Despite his qualifying the said Departmental Examination, he was not granted promotion to the post of LSG Supervisor (Full-fledged) in the year 1976. However, he was promoted as LSG Supervisor against 20% quota in the year 1978. During the period from July 2009 to April 2014, the applicant made applications and appeals under the RTI Act seeking information about the Departmental Examination conducted on 30.11.1975 and as to why he was not promoted as LSG Supervisor in 1976, but to no avail. Therefore, the applicant filed the present O.A. on 3.9.2014 seeking the following reliefs:

- 88.1 to allow this application;
- 8.2 direct the respondent to pay difference of amount in salary for the period 1976 till date in the grade of LSG Full-fledged Supervisor under 1/3rd quota and to recalculate the entire arrear and affect on pension with consequential benefits.
- 8.3 direct the respondent to re-fix pension after re-fixation of salary in LSG full-fledged Supervisor as on 1976;
- 8.4 to issue any such and further orders/directions this Hon'ble Tribunal deems fit and proper in the circumstances of the case; and
- 8.5 to allow exemplary costs of the application.ö

1.1 It has been contended by the applicant that having qualified in the Departmental Examination conducted in 1975, he was entitled to be promoted as LSG Supervisor (Full-fledged) from 1976 with all consequential financial and service benefits. The respondents have acted illegally and arbitrarily in not promoting him as LSG Supervisor (Full-

fledged) from 1976. As a consequence, his pension was not properly fixed, and he suffered from huge financial loss.

2. In their counter reply, the respondent has stated that the O.A. is grossly barred by limitation. The record pertaining to the applicant is not traceable and appears to have been weeded out. As per the available information, the applicant was transferred to Delhi Sorting Division w.e.f. 12.1.1983, vide SSRM/Airmail Sorting Division Memo dated 11.1.1983. In pursuance of the PMG, Delhi Circle Memo dated 27.10.1987, the applicant was appointed as LSG Supervisor and allowed to draw special allowance of Rs.40/- w.e.f. 21.12.1987. The applicant was further placed in the next higher scale of Rs.1600-2660/- under BCR cadre w.e.f. 1.10.1991, vide Circle Office Memo dated 19.10.1993. As per order contained in the Circle Office Memo dated 30.12.1994, the applicant retired from Government service on attaining the age of superannuation on 31.12.1994.

3. The applicant has filed a rejoinder reply, wherein, besides reiterating more or less the same averments and contentions as in his O.A., he has submitted that the respondent-Department could not have weeded out his personal file/record till he dies.

4. We have carefully perused the records, and have heard Mr.Nitin Mohan Popli, the learned counsel appearing for the applicant, and Dr.Ch.Shamsuddin Khan, the learned counsel appearing for the respondent.

5. In the present case, the cause of action, if any, arose in 1976 when, according to the applicant, the respondent-Department did not

promote him as LSG Supervisor (Full-fledged) under 1/3rd quota in spite of his having qualified the Departmental Examination conducted in 1975. The applicant did not make any representation in 1976 or within a reasonable period thereafter claiming the aforesaid promotion. He retired from Government service on attaining the age of superannuation on 31.12.1994. The applications, first appeals, and second appeals made by the applicant under the R.T.I.Act during the period from July 2009 to 2012 (copies of which have been filed by the applicant along with the O.A.) seeking information about the Departmental Examination conducted in 1975 and about his non-promotion in 1976 cannot be termed as representations made by him to the respondent-Department for redressal of his grievances, if any. Furthermore, the said applications, first appeals, and second appeals made by the applicant after about 15 years of his retirement from service cannot revive the cause of action which arose in 1976. In the above view of the matter, we are of the considered view that the issue/dispute as raised by the applicant in the present O.A. is clearly barred by delay and laches. This view of ours is fortified by the decisions of the Hon'ble Supreme Court in D.C.S.Negi v. Union of India and others SLP(CC 3709/2011), decided on 7.3.2011; State of Karnataka & Ors. v. S.M.Kotrayya & Ors., (1996) 6 SCC 267; Karnataka Power Corp. Ltd. through its Chairman & Managing Director v. K. Thangappan and another, (2006) 4 SCC 322; C. Jacob v. Director of Geology and Mining and another, (2008) 10 SCC 115; Union of India and others v. M. K. Sarkar, (2010) 2 SCC 59; and State of

Uttaranchal and another vs. Sri Shiv Charan Singh Bhandari and others, C.A.Nos.7328-7329 of 2013, decided on 23.8.2013.

6. The applicant has not produced before this Tribunal any material to show that he had qualified the Departmental Examination conducted by the respondent-Department on 30.11.1975 for promotion of the qualified personnel as LSG Supervisor (Full-fledged) under one-third quota. As the applicant was not promoted as LSG Supervisor (Full-fledged) in 1976, we do not find any merit in the prayer made by the applicant in the O.A.

7. In the light of what has been discussed above, the O.A., besides being barred by delay and laches, is devoid of merit and liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

(K.N.SHRIVASTAVA)
ADMINISTRATIVE MEMBER

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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