

OA.No.170/00316/2017/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00316/2017

DATED THIS THE 29TH DAY OF AUGUST, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI DINESH SHARMA, MEMBER (A)

Iqbal Khan

S/o Late Mehbood Khan

Aged about 56 years,

Driver,

Institute of Wood Service &

Technology,

18th Cross, Malleshwaram,

Bengaluru – 560 003.

Residing at No. 13, 3rd Main Road,

Seshadripuram,

Bengaluru – 560 020

.....Applicant

(By Advocate Shri Narasimhamurthy)

Vs.

1. The Conservator of Forest
Sandal Research Centre,
Department of Environment
And Wild Life,
Malleshwaram, 18th Cross,
Bengaluru – 560 003

2. The Director,
Institute of Wood Science
And Technology (Indian Council of
Forestry Research and Education),
(An autonomous body of the
Ministry of Environment and
Forest, Government of India)
18th Cross, Malleswaram,
Bangalore – 560 003.

3. The Union of India
by its Secretary,
Department of Ministry of
Environment and Forest,
Paryavaran Bhavan,
New Delhi – 110 001

....Respondents

(By Shri V.N. Holla, Senior Panel Counsel)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The matter in issue is very simple. The applicant and another person Shri Nagaraj were parties before us in OA No. 728/1988 and 266/1989. Apparently in Nagaraj's case the matter was disposed off on 20.02.1990 and the department vide order dated 22.11.1990 had given him an offer of appointment. But in the case of the applicant the case was more hotly contested as the applicant was under the shadow of departmental inquiry at that point of time on the ground that he was quarrelling with his superior and also he was absent from duty therefore we had passed a conditional order in OA No. 728/1988 on 28.02.1999 to complete the inquiry first of all and then, if he is eligible, consider him for appointment. Thereafter the applicant was appointed as Group-D employee on 25.03.1992. Therefore in the meanwhile since there was no vacancy for Drivers Shri Nagaraj was posted to Jodhpur and the applicant was posted to Assam. Thereafter when the vacancy arose as Drivers these people in that turn respectively were brought back to Bangalore. Now the applicant claims that in accordance with what has been granted to Shri Nagaraj the same benefit must be extended to him. He would say that vacant posts were available even before and that he could have been accommodated earlier, i.e., on 25.03.1992 he could have been accommodated at Bangalore only. For the delay from 1992 to 2017, i.e., for about 25 years the applicant would say that the applicant being a poor and illiterate person must be considered as not eligible to come under the ambit of laws relating to limitation. That will not lie for the very simple reason that applicant had been able to file an earlier OA. If he finds that he has a right to it, he could have filed a second OA also. Besides which we find from the pleadings of the earlier OA and this OA that there is an ultimate similarity even including the relief claimed even

though after a lapse of time. So, for the ground of *res judicata* and limitation of almost a quarter of a century, this OA will not lie even on merit also. The matter will not lie for the very simple reason that when a departmental inquiry is pending against a person then the promotional prospects of that person will arise only after the cloud of the inquiry is removed from his shoulders. Therefore on merit also this OA will not lie. The OA is dismissed. At this point of time Shri Narasimhamurthy, learned counsel for the applicant, submits that in the interregnum the applicant had sent several requests to the respondents also. As held by the Hon'ble Apex Court in more than hundred cases sending such requests will not improve the question of limitation for any person.

2. The OA is dismissed. No order as to costs.

(DINESH SHARMA)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00316/2017

Annexure A1 Copy of the memorandum dated 29.07.1985

Annexure A2 Copy of the certificate dated 17.06.1987

Annexure A3 & A4 Copies of the statement dated 31.03.1991 and 30.06.1991

Annexure A5 Copy of the official memorandum dated 03.03.1992

Annexure A6 Copy of the order dated 11.03.2009

Annexure A7 Copy of the order dated 15.07.2011

Annexures with reply statement

Annexure R1 Copy of the order in O.A. No.728/1988 dated 28.02.1990

Annexure R2 Copy of the inquiry report dated 15.11.1991

Annexure R3 Copy of the telegram dated 25.02.1992

Annexure R4 Copy of the offer of appointment dated 03.03.1992

Annexures with rejoinder

Annexure A8 Copy of the letter dated 08.04.1992

Annexure A9 to A14 Copies of the representations dated 20.10.1995, 04.03.1996, dated nil, 01.08.2015 and 18.04.2007

Annexure A15 Copy of the representation dated 26.10.1996

Annexure A16 Copy of the order dated 17.03.2009

Annexure A17 to A21 Copies of the applications of the applicant and replies of the respondents dated 04.10.2011, 29.08.2011, 03.11.2011, 18.11.2011 and 22.11.2011

Annexure A22 Copy of the letter dated 20.08.1993

Annexure A23 Copy of the ICFRE Pension Fund Trust Byelaws dated nil

Annexure A24 Copy of the order of the Tribunal dated 20.02.1990

Annexure A25 Copy of the order of the Hon'ble Apex Court dated 26.10.1990

Annexures with additional reply statement

Annexure R5 Copy of the memo dated 24.01.2005

Annexure R6 Copy of the memo dated 15.05.2007

Annexure R7 Copy of the OM dated 22.11.1990

Annexure R8 Copy of the order of appointment dated 03.12.1990

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