

**Central Administrative Tribunal
Madras Bench**

OA/310/00188/2015

Dated 5th day of March Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

Mr.S.Jagannathan,
Additional Superintendent of Police,
CBI (Retd.), Plot No.84 & 85,
Door No.35, Nehru Street,
Alwarthirunagar, Valassaravakkan,
Chennai 600 087. .. Applicant
By Advocate M/s.V.Appakutty

Vs.

1. Union of India rep by
The Director,
Central Bureau of Investigation,
CGO Complex, Lodhi Road,
New Delhi 110003.
2. Union of India, rep by
The Secretary,
M/o Home Affairs,
New Delhi 110001.
3. Union of India, rep by
The Secretary,
M/o Personnel, Public Grievances & Pension,
Department of Personnel & Training,
North Block, New Delhi 110001.
4. Dy. Director (per.1), O/o the Director, CBI,
CGO Complex, Lodhi Road,
New Delhi 110003. .. Respondents

By Adovacte **Mr.C.Kulanthaivel**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

Applicant has filed this OA seeking the following relief.

“a) Summon the entire relevant records from the respondents and quash the impugned order dated 23.12.2014 passed by Dy. Director, Office of the Director, Central Bureau of Investigation, New Delhi.

b) Direct the 1st respondent to confer the status of notional promotion in the cadre of SP to the applicant with effect from 2004 for the purpose of availing retirement benefits.

c) Any other relief as deemed fit and proper on the facts and circumstances of the case may be granted in favour of the applicant”

2. According to the applicant, he joined the CBI as Sub-Inspector of Police (SP) and thereafter, he was promoted to the post of Additional SP (ASP) on 22.1.2001. On 31.8.04 the seniority list of Addl. SP was published by the 1st respondent and the applicant was at Sl.No.20 in the seniority list. Owing to the delay that took place, the DPC was not conducted in time. Subsequently the applicant got retired on 30.11.2004. According to him, his juniors were appointed as SP and this was mainly due to the delay occurred in conducting the DPC. According to the applicant, he had filed a representation before the 1st respondent on 05.1.2013 seeking notional promotion but the respondents had not acceded to his request. The 4th respondent has rejected his claim on 23.12.2014 and hence the applicant seeks to quash the same and extend all the benefits due on promotion on a notional basis in this OA.

3. The respondents entered appearance and filed a detailed reply denying the

allegations in the OA. According to the respondents, there was 1 vacancy of the SP in the year 2003 and there were 18 vacancies occurred during 2004. In order to fill up these vacancies, process were initiated and after completion of all required formalities a proposal was sent to the Union Public Service Commission (UPSC) through DoPT. The applicant was one among the Addl. SsP who came in the list. The UPSC approved the list and forwarded to the DoPT on 09.11.2004. Thereafter, the file was sent to the President of India who is the appointing authority in the case and finally a list was approved on 21.12.04 for appointment of 19 Addl. SsP. As per the DoPT OM No.22011/4/98-Estt.(D) dated 12.10.1998, the DPC should consider all the eligible employees who were within the zone of consideration for the relevant year but are not actually in service when the DPC is being held, and include such employees in the panel but such officers would have no right for actual promotion. The DPC may, if needed, prepare extended panel in place of those officers who are retiring in the same year. According to the respondents, the DPC has considered the name of the applicant but it has not recommended the name of the applicant as he is retiring in the same vacancy year. There is no provision for notional promotion and the applicant cannot be granted notional promotion.

4. Learned counsel for the respondents had invited the attention of the court to the fact that the applicant was omitted for appointment by the DPC in the year 2003 itself and the applicant has not challenged the decision within a period of one year. In a similar case, the Principal Bench of this Tribunal has dismissed the OA stating that the OA itself is completely barred by limitation as the original cause of action arose

in the year 2004 itself.

5. We have anxiously gone through the submissions made by the applicant and the respondents in this case. It is seen that the name of the applicant was considered in the DPC meeting held on 09.11.2004 but the DPC has recommended the name of another officer in the extended panel in his place for the reason that the applicant was not available for promotion due to retirement. The applicant has retired on 30.11.04. Therefore, it is clear that the cause of action in the instant case arose actually in the year 2004 itself. Thereafter, no action was taken by the applicant till the year 2013 in this case. It is also seen that the first representation was made by the applicant on 05.1.2013 i.e. after a period of more than nine years when the cause of action had occurred to him. The respondents had rejected the claim by impugned order dated 23.12.2014, which order will not, in any manner, condone the delay. So, this OA cannot be entertained as it is hopelessly barred by limitation as per Section 21 of the AT Act. Accordingly, the OA is dismissed as barred by limitation.

(T.Jacob)
Member(A)

05.03.2019

(P.Madhavan)
Member(J)

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