

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

O.A. No.4353/2018

Reserved On: 13.12.2018

Pronounced on: 19.12.2018

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)
HON'BLE MR. A.K. BISHNOI, MEMBER (A)**

V. Somaiah
Group-C, Age 61,
UGF-02, Bharat Apartment,
Shakti Enclave,
Plot No.10-23, Khasra No.510,
Behind Shalimar Palace, Burari,
Delhi-110084.Applicant

(By Advocate: Shri P. Venkatesan)

Versus

1. Union of India through Secretary,
Ministry of Defence,
DRDO Bhawan, Rajaji Marg,
New Delhi-110011.
2. Defence Research & Development Organisation
Through Director (HRD)
DRDO Bhawan, Rajaji Marg,
New Delhi-110011.
3. Defence Research & Development Organisation
Through Director of Civil
Works & Estates (RD-28),
Defence Research and Development Org.
DRDO Bhawan, Rajaji Marg,
New Delhi-110011.
3. Chief Construction Engineer (R&D) Estates,
Chandrayanagutta, Keshavgiri, PO
Hyderabad-500005. ..Respondents

(By Advocate: Shri R.K. Jain)

ORDER

By Hon'ble Mr. V. Ajay Kumar, Member (J)

The applicant, filed the OA seeking the following reliefs:-

- “(a) Allow the present Original Application.
- (b) Direct the respondents to consider the notional promotion to the applicant as the senior store officer from the year 2014 or any cut-off date whichever is the vigilance Orders is binding.
- (c) Pass any other and further order(s) which may be deemed to be just, fit and proper in favour of the applicant in the light of the facts and circumstances of the case”.

2. Heard Shri P. Venkatesan, the learned counsel for the applicant and Shri R.K. Jain, the learned counsel for the respondents, who appeared on receipt of advance notice and perused the pleadings on record.

3. In short, the applicant is seeking promotion with effect from the date on which his alleged junior, Shri K. Paul was promoted to the post of Store Officer.

4. Earlier, the applicant filed OA No.3445/2015 seeking the same relief. The said OA was disposed of by this Tribunal on 08.10.2015 as under:-

“The only argument put-forth by learned counsel for applicant is that the applicant should be given promotion as Store officer from the date the same has been given to Mr. K. Paul, his junior. We find from the seniority list, relied upon by the learned counsel, that Mr. Paul was promoted to feeder post w.e.f. 15.10.2001 while the applicant was so promoted w.e.f. 1.1.2006 and Mr. Paul is sufficiently senior to the applicant. The seniority list reads thus:-

Seniority In list	Name	Sex	Estt	SC/ST Or N	Date of birth	Educa tional Qualif ication	Date entry Govt. service	Date of in	Date of appointme nt to the present grade	Date of promoti on in the previous grade	Senior ity Date	DPC/SB Date	Re ma rks if any
	Shri												
1.	K. Paul	M	CCE (R&D) Estates, Hyd.	N	15.12.58	Inter	11.08.09		15.10.01	02.12.92	15.10. 01	15.10.01	

2.	V. Somaiah	M	EMU Hyd	SC	03.02.56	Inter	05.03.86	01.01.06	11.06.98	14.10. 05	14.10.05	
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2. Nevertheless, the learned counsel made an attempt to canvass that since the initial appointment of the applicant as Store Assistant ‘B’ was made before the appointment of Mr. Paul, i.e., he was appointed to the post w.e.f. 5.3.1986 whereas Mr. Paul was appointed w.e.f. 11.8.1989, he should be treated as senior to Mr. Paul.

3. Cause of action to raise such issue accrued to the applicant about more than two and half decades ago and the controversy cannot be re-opened at this belated stage. In the impugned order dated 25.5.2015, the Government of India, Ministry of Defence has explained that prior to 1992 the Departmental Promotion Committees were held in the respective Units. If the applicant had any grievance against such method, he could have espoused his plea at that point of time.

4. As has been held by the Hon’ble Supreme Court in **B.S. Bajwa & another v. State of Punjab & others**, JT 1998 (1) SC 57, the controversy of promotion and seniority cannot be re-opened after long delay, as it results in disturbing the settled position, which is not justifiable. Paragraph 6 of the said judgment reads as under:

“6. Having heard both sides we are satisfied that the writ petition was wrongly entertained and allowed by the single Judge and, therefore, the judgments of the Single Judge and the Division Bench have both to be set aside. The undisputed facts appearing from the record are alone sufficient to dismiss the writ petition on the ground of laches because the grievance made by B.S. Bajwa and B.D. Gupta only in 1984 which was long after they had entered the department in 1971-72. During this entire period of more than a decade they were all along treated as junior to the order aforesaid persons and the rights inter se had crystalised which ought not to have been re-opened after the lapse of such a long period. At every stage the others were promoted before B.S. Bajwa and B.D.Gupta and this position was known to B.S. Bajwa and B.D. Gupta right from the beginning as found by the Division Bench itself...”

5. In the wake, the Original Application is found devoid of merit and is accordingly dismissed in *limine*.

5. The applicant, in spite of dismissal of his earlier OA, again filed the instant OA seeking the same reliefs. As the same is not

maintainable, the instant OA is dismissed. However, this order shall not preclude the applicant from availing his remedies, in accordance with law, against the order dated 08.10.2015 in OA No.3445/2015, if he is aggrieved with the same. No costs.

(A.K. BISHNOI)
Member (A)

(V. AJAY KUMAR)
Member (J)

RKS