

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 511/2003
MA 524/2003

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New Delhi, this the 21st day of October, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Sh. Sarweshwar Jha, Member (A)

Mr. Cherian Abraham
S/o Late P.T. Abraham
J-202, Nar Vihar-II, Sector-34
NOIDA, UP 201307.

...Applicant

(None present even on second call)

V E R S U S

1. Union of India through
The Secretary
Ministry of Information & Broadcasting
Shastri Bhawan, New Delhi - 110 001.
2. The Secretary
Ministry of Personnel
Public Grievances & Pensions
North Block, New Delhi - 110 001.
3. Mr. John Churchill
Special Correspondent
Prasar Bharti, Hong Kong.
4. Mr. D.N. Mohanty
DPIO, PIB, Shastri Bhawan
New Delhi - 110 001.

...Respondents

(By Advocate Sh. R.P. Aggarwal)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

This application has been filed by the applicant seeking following main reliefs as stated in paragraph 8 of the OA :-

- (a) That the OA be allowed with costs;
- (b) Declare the rule prescribing non-communication of below benchmark grading as void, ab initio illegal, wrong and ultra vires the Constitution (UP Jal Nigam case).

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(c) Respondents to give promotion to the applicant to JAG w.e.f. 28th April, 1995, the date his juniors were promoted vide order dated 28th April, 1995 and to NFSG w.e.f. 6th June, 2000 the date his juniors were promoted vide order dated 8th September, 2000.

(d) Direct the respondents to restore the seniority of the applicant with all consequential benefits from the dates his juniors were promoted to JAG, NFSG and SAG.

2. Applicant has also filed MA 524/2003 praying for condonation of delay in filing the OA. As none has appeared for the applicant even on the second call, which was also the position on the last date when the OA was listed, the OA could have been dismissed for default and non-prosecution under Rule 15 of the CAT (Procedure) Rules, 1987. However, we have perused the pleadings and heard Sh. R.P. Aggarwal, learned counsel for the respondents and dealt with the pleas on merits.

3. Taking into account the nature of the reliefs prayed for by the applicant, namely, that he should be granted promotion to Junior Administrative Grade (JAG) w.e.f. 28-4-95, that is the date his juniors were promoted vide order dated 28-4-95 and the Non-Functional Selection Grade (NFSG) w.e.f. 6-6-2000 i.e. the date when his juniors were promoted vide order dated 8-9-2000, we find merit in the

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submissions made by the learned counsel for the respondents that the OA is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985.

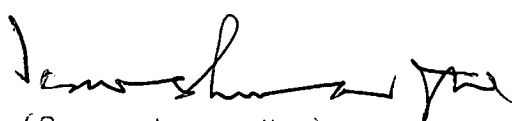
4. We have also carefully considered the grounds taken by the applicant in MA 524/2003 praying for condonation of delay. He has relied on the earlier OA filed by him with one other person (OA 2437/2001). That OA has since been disposed of by the Tribunal as mentioned by the respondents in their counter affidavit. It is relevant to note that even OA 2437/2001 has been filed by the applicant only in the year 2001 praying for promotions to JAG and NFSG w.e.f. 28-4-95 and 6-6-2000, respectively. Therefore, in the facts of the case, there appears to be no sufficient ground to condone the delay as the OA 2437/2001, which has since been disposed of vide order dated 26-5-2003, itself appears to have been filed after considerable delay, followed by the present OA. Accordingly MA 524/2003 is dismissed under Section 21 (3) of the Administrative Tribunals Act, 1985. A perusal per of the list of dates and the averments of the applicant in the OA itself shows that the applicant had been duly considered by the DPC which met in 1995 but he was not considered fit for promotion. The DPC which was held on 31-3-98 and 1-4-98 considered his case again and found him fit for promotion to JAG and accordingly he was promoted. Similarly, the applicant's case had been considered for promotion to NFSG by Selection Committee in September, 2000 but he was not found fit then. The respondents in their reply have submitted that the applicant was again considered for grant of NFSG by

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the Selection Committee in its meeting held on 27-5-2002 and the Committee had recommended him for grant of NFSG w.e.f. 1-4-2001 against the vacancies for 2001-02. Accordingly he was granted NFSG w.e.f. 1-4-2001. The applicant has retired from service on superannuation on 31-7-2002. It is relevant to note that the applicant has not mentioned the above facts with regard to his promotion to NFSG w.e.f. 1-4-2001 after the recommendations of the Selection Committee held on 27-5-2002, even though this OA has been filed thereafter on 13-2-2003.

5. Taking into account the relevant facts and circumstances of the case, we find no justification to interfere in this matter as the action of the respondents in granting him the promotion to JAG and selection to NFSG cannot be held to be de hors the Rules.

6. In the result, for the reasons given above, as we find no merit in this application, apart from the fact that it is barred by limitation, accordingly OA is dismissed. No costs.



(Sarweshwar Jha)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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