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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.853/2003

New Delhi this the 28th day of March, 2003

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Suman Lata Bhatia,
W/O Shri Vinod Kumar Bhatia,
Sr.Translator (Hindi),
P.A. No.30492,
HQ Western Air Command, IAF,
New Delhi.

Resident of B-29, East Uttam
Nagar, New Delhi.

..Applicant
(By Advocate Shri G.D.Bhandari)

VERSUS

Union of India, through

1. The Secretary,
Ministry of Defence,
Govt.of India, New Delhi.
2. The Officer Commanding,
HQ Western Air Command,
IAF (C.Edn.O),
Subroto Park,
New Delhi-110010
3. The Air Officer I/C Persn.,
Air Headquarters, Vayu Bhawan,
New Delhi.
4. Smt.Veena Mittal,
Translation Officer (Hindi),
HQ Western Air Command, IAF,
New Delhi.

..Respondents

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

We have heard Shri G.D.Bhandari, learned counsel for
the applicant in OA and MA (un-numbered) filed by the
applicant for condonation of delay.

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2. The applicant has prayed for the following reliefs in Para 8:-

"(i) declare that the supersession of the applicant, when Smt. Veena Mittal, a junior person, was promoted as Translation Officer (Hindi) vide orders dated 29.12.1988, Ann.A.6 was absolutely illegal being badly vitiated.

(ii) direct/order the Respondents to consider the transfer of the post of Hindi Translation Officer from Hyderabad to Delhi on the lines already done in case of Shillong and Hindan as submitted in the foregoing paras or alternatively deem the promotion of the applicant effective from 29.12.1988, the date when her junior was promoted and restored her original seniority.

(iii) any other relief deemed fit and proper in the circumstances of the case, may be granted, in the interest of justice.

3. In the MA filed by the applicant for condonation of delay she has submitted, inter alia, that respondent No.4 has been promoted by order of the respondents dated 29.12.1988, ignoring her rightful claim without any reason. She has also submitted that against the newly created post of Translation Officer (Hindi)(TO)(H), at Hyderabad, she has been offered promotion which she had refused because of the family circumstances as she is a widow etc. Another reason is that she had filed OA 2673/2002 against certain other grievances. She has also submitted that the delay in filing the present application was beyond her control and is not mala fide for which she sincerely regrets and tenders her unconditional apology.

4. After careful consideration of the reasons given by the applicant for the delay in filing the OA challenging the action and orders issued by the respondents dated 29.12.1988 promoting respondent No.4 to the post of TO(H),
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we are unable to come to the conclusion that there is any sufficient reason to allow the MA for condoning the delay. It is not a case where the applicant was not aware that the respondents have issued the impugned order dated 29.12.1998 promoting respondent No.4, whom she states was a junior person. Various contentions have been raised on the newly created post in 1991, against which post she had been offered promotions several times but she was refused because of her own personal reasons, which cannot be held as sufficient reasons to condone the delay of nearly 15 years.

5. It is settled law that in such cases of promotion and seniority, the Courts/Tribunals should not interfere to unsettle the settled position. This has been held by the Hon'ble Supreme Court in K.R.Mudgal and Ors Vs. R.P.Singh and Ors (1986(4) SCC 531 and in the Constitutional Bench judgement of the Hon'ble Supreme Court in The Direct Recruit Class II Engineering Officers' Association Vs.State of Maharashtra (JT 1990 (2) SC 264). Shri G.D.Bhandari, learned counsel on the other hand has relied on the judgements of the Hon'ble Supreme Court in N.Balakrishnan Vs. M. Krishnamurthy (1998)(7)SCC 123) and Ram Nath Sao alias Ram Nath Sahu and Ors Vs. Gobardhan Sao and Others (AIR 2002 SC 1201). He has submitted that the Court has to render substantial justice. However, while justice is supreme, the balance of convenience between the parties will also have to be kept in mind as laid down in a catena of judgements of the Apex Court and the bar of limitation laid down under

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Section 21 of the Adminsitrative Tribunals Act, 1985, and other provisions of law cannot be given a go—bye. This provision of law is fully applicable to the facts in this case as nothing prevented the applicant to have the matter placed before the judicial forum for a decision when the respondents issued the order dated 29.12.1998 which she impugns now. In the facts and circumstances of the case, we are of the considered view that the bar of limitation is fully applicable where the question is the promotion of a party which is sought to be agitated nearly 15 years later. Justice has to be done in accordance with law and the balance of interests of the concerned parties has also to be considered.

7. In this view of the matter, MA filed by the applicant for condonation of delay being devoid of merit is dismissed. Accordingly OA 853/2003 also fails and is dismissed at the admission stage.

(Govindan S.Tampi)
Member (A)
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Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Vice Chairman (J)