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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1666/2003

New Delhi this the 4th day of July, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. S.K.NAIK, MEMBER (A)

Jagjit Singh
S/o Shri Sardar Gurdial Singh,
Working as Superintendent Engineer Gp 'A'
SO-I(U), Engineer-in-Chief Branch,
Army HQs, DHQ, PO, New Delhi.

...Applicant

(By Advocate: Shri A.K.Trivedi)

-Versus-

1. Union of India,
Through It's Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Engineer-in-Chief,
E-in-C's Branch, Army HQs,
DHQ, PO, Kashmir House,
New Delhi-110011.

...Respondents

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Through this OA applicant impugns respondents' order dated 25.2.2003 whereby his request for promotion to the post of Superintending Engineer (SE) for the vacancy year 1994-95 was turned down. He has sought extension of judgment dated 12.11.2001 in OA-1936/2001 - R.K. Anand v. Union of India.

2. Applicant who was promoted as Executive Engineer in the year 1979 could not be promoted to the post of SE due to insufficient vacancy in the year 1993-94. However, for the year 1994-95 his name was not included in the select panel. However, applicant was promoted as SE on 11.8.97. Representation made by applicant for his promotion has been turned down on 12.3.96.



(2)

3. In OA-1936/2001 decided on 12.11.2001 on the basis of decision of Apex Court in U.P. Jal Nigam v. Prabhat Chandra Jain, AIR 1996 SC 1651 on account of downgrading of assessment and ACR without communication review DPC was ordered.

4. Learned counsel for applicant Sh. A.K. Trivedi contends that as his request has been turned down only on 22.5.2003 and as he has been in all fours covered by the ratio in OA-1936/2001 respondents who have downgraded his ACR without communication are bound to convene a review DPC for reconsideration and antedation of his promotion w.e.f. 1994-95.

5. We have carefully considered the contentions put-forth at the admission stage. The order passed on 25.2.2003, by no stretch of imagination would give a new lease of limitation. What has been apprised to applicant by this order is that his earlier request turned down on 19.2.96 and no further reply is necessary and the case is time barred.

6. The cause of action had accrued to applicant on 12.3.96 and as per Section 21 of the Administrative Tribunals Act, 1985 he could have approached this Court within one year from this date. We do not find any application for condonation of delay.

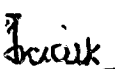
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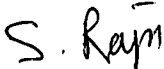
7. The contention put-forth by applicant as to extension of benefit of decision of the Apex Court (supra) cannot be countenanced, as the same was delivered on 12.11.2001 on the basis of decision of Apex Court in 1996 whereas the present OA has been filed in 2003.

8. It is held by the Apex Court in Bhoop Singh v. Union of India & Ors., JT 1992 (3) SC 322 that a decision of the Court cannot extend lease of limitation or vest applicant with a fresh cause of action. Moreover, as held by the Apex Court in Hukam Raj Khinsara v. Union of India & Ors., 1998 (1) SLJ 226 in absence of any prayer for condonation of delay by way of an MA this Court cannot suo moto condone the delay.

9. We are of the considered view that as the cause of action had accrued to applicant in 1996 the present OA filed in 2003 is hopelessly barred by limitation and suffers from the vice of delay and laches. We do not find the cause of action as continuing one.

10. In the result, for the foregoing reasons, we dismiss the OA as barred by limitation at the admission stage itself. No costs.


(S.K. Naik)
Member (A)


(Shanker Raju)
Member (J)

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