



Central Administrative Tribunal
Principal Bench

OA No.2352 of 2003

New Delhi this the 14th day of September, 2004.

Hon'ble Mr. Kuldip Singh, Vice-Chairman (J)
Hon'ble Mr. S.A. Singh, Member (A)

Chittar Mal s/o Late Sh. Budhi Ram,
R/o A-332, Dr. Ambedkar Nagar,
Sector No. 3,
New Delhi – 110 062.

....Applicant

(By Advocate: Shri Prakash Chander)

-versus-

1. Union of India through
Secretary to Ministry of
Communication, Deptt. Of Posts,
Postal Service Board,
Dak Bhawan, New Delhi.-110 001.
2. Director of Postal Services (Postal)
Meghdoot Bhawan,
New Delhi – 110 001.

...Respondents

(By Advocate: Shri R.P. Aggarwal)

ORDER (ORAL)

Hon'ble Mr. Kuldip Singh, Vice chairman (J):

Applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act,1985 whereby he has challenged his non-promotion to Higher Selection Grade-II in the scale of Rs. 5000-8000/- (RPS) and Higher Selection Grade-I in the scale of Rs. 6500-10500/- (RPS) from the date his juniors S/Shri O.P. Kain & Budhi Ram were promoted. Applicant is also stated to have made a representation on 4.4.2002 to respondent no. 2 for doing the needful but so far no order has been passed on the said representation.

2. Applicant has also annexed a copy of the order dated 14.01.2003 along with O.A. as Annexure A/2 vide which his so-called juniors were placed in Higher Scale Grade-I. However, on perusal of the prayer clause, we find that the applicant has sought for issuance of a direction to the respondents to promote him from the dates his juniors were promoted in LSG, HSG-II and HSG-I grade, respectively with consequential benefits. It is an admitted fact that juniors to the applicant were promoted to LSG on 1.11.1985 whereas he was promoted to LSG on 1.4.1986. Thus, the applicant wants the Tribunal to relate back his promotion to the year 1985.

3. Respondents have taken an objection that the O.A. is highly barred by time as applicant is first of all seeking promotion to LSG from 1.11.1985 when his so called juniors were given promotion with consequential promotions to further grades of HSG-II and HSG-I whereas the OA has been filed in on 19.9.2003. Thus the OA is basically filed at least 18 years after the promotion was given to his alleged juniors.

4. Confronted with this situation, the learned counsel for the applicant submitted that this is a continuing cause of action as the applicant is drawing lesser payment than his juniors each and every month so the plea of limitation, as raised by the respondents, does not affect his case and in this view of the matter, his case should not be dismissed on the ground of limitation.

5. In our view, this contention of the learned counsel for the applicant has no merit because the respondents in their reply had



stated that at the relevant time, when the juniors of the applicant were given promotion to LSG, he was suffering punishment as a result of departmental enquiry, so the applicant was found unfit by the DPC and that is why he was not given promotion. In reply to this, the learned counsel for the applicant submitted that in the said departmental enquiry the applicant was given a penalty of recovery of certain amount, which, according to the department, was for compensating the loss of revenue to the department. Hence, in such like cases the promotion of the applicant could not have been withheld. He also submitted that the department had never informed the applicant that the DPC had considered him unfit for promotion.

6. Be that as it may, the fact remains that the applicant was not given promotion in the year 1985 when his so called juniors were promoted. Therefore, the cause of action had arisen to the applicant in the year 1985 itself. Assuming the department had erroneously denied promotion to the applicant by taking into consideration the penalty of recovery of amount imposed as a consequence of departmental proceedings, which could not have been taken into consideration by the DPC, but the applicant did not challenge the same at an appropriate time. Now after 18 years, the applicant cannot be allowed to challenge the recommendations made by the DPC holding him unfit for promotion.

7. We are of the considered opinion that the application is highly belated and the same is liable to be dismissed. Even otherwise, it cannot be said to be a continuing cause of action because the case of the applicant was considered by the DPC which by one stroke had

[4]

found him unfit for promotion. Merely getting a lesser pay each and every month cannot be a continuing cause of action and it will not extend the period of limitation.

8. In the result, the O.A. is dismissed for want of limitation.


(S.A. Singh)

Member (A)


(Kuldip Singh)

Vice Chairman (J)

/na/