

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CW 7527/2000

P.R.SENIARAY

..... Petitioner
Through Mr.G.D. Gupta, Sr.Advocate
with Mr.Puneet K.Verma,
Adv.

versus

U NION OF INDIA & ORS.

Through

..... Respondents
Mr.Rajeev Shakdhar with
Mr.Sanjeev Kumar, Adv.s. for
R-1 & 2 Mr.B.S.Mor with
Ms.OSG Praseena for R-3.

CORAM:

HON'BLE MR. JUSTICE D.K. JAIN

HON'BLE MR. JUSTICE MADAN B. LOKUR

ORDER

20.03.2003

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This writ petition is directed against the order, dated 15 October 1999, passed by the Central Administrative Tribunal, Principal Bench, New Delhi, (for short the Tribunal) in Original Application No.1765/95. By the impugned order, the Tribunal has dismissed petitioner's Application as barred by limitation.

2. The material facts, in so far as these are relevant for deciding the controversy before us, are as follows:

The petitioner, who had joined the Ministry of Agriculture as 'B' grade clerk, was nominated for appointment as a Third Division Clerk in the Indian Council of Agricultural Research (ICAR), where he was confirmed in the said post w.e.f. 8 January 1950. He was given notional promotion as Assistant w.e.f. 26 July 1952 but the actual promotion was made effective from 15 May 1957. Claiming that he should have been promoted as an Assistant from 8 January 1950, petitioner made various representations. On 7 April

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1984, his representation was partly accepted and he was promoted on ad hoc basis as Assistant with effect from 29 November 1950. Not being satisfied the petitioner again made a representation on 16 May 1984 and yet another one on 14 August 1992. Vide communication dated 16 December 1992, the petitioner was informed by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training as under :

"Subject: Representations dated 14-8-92 addressed to Nos (PP) and 18-11-92 addressed to Secretary (P) for promotion/Seniority in the grade of Assistant with retrospective effect from 8-1-50.

Sir,

I am directed to refer to your representation on the above subject and to say that your case is under consideration of this Department. Final reply in the case will be sent shortly."

3. It appears that since a final reply on the representation was not forthcoming, the petitioner filed a complaint with the National Commission for Scheduled Castes and Scheduled Tribes. Vide letter dated 14 November 1994, the petitioner was informed by the said Commission that the Ministry of Personnel, Public Grievances and Pensions, New Delhi, with whom his case was taken up, had reported to the Commission that the petitioner had already been granted some relief in consultation with the Ministry of Law. The petitioner was advised to follow up the matter directly with that Department. Aggrieved, the petitioner preferred an original application before the Tribunal. As noted above, by the impugned order the Tribunal, has dismissed the application as barred by limitation, as prescribed under Section 21 of the Administrative Tribunals Act, 1985, observing that the limitation to file the application commenced from 7 April 1984, when the petitioner was informed

about his appointment as Assistant with effect from 29 November 1950.

4. We have heard learned counsel for the parties.

5. It is evident from the impugned order, that while coming to the afore-noted conclusion, the Tribunal has lost sight of the afore-extracted communication dated 16 December 1992. Since the petitioner was told that he would be getting the final reply on his representation shortly, prima facie, it could not be said that he was not diligent about his rights and had failed to take recourse to appropriate remedy at the right time.

6. At this stage Mr. Shakhdar, learned counsel for respondents 1 & 2 would submit that since the order of the Tribunal is silent about these facts, the matter may be remanded back to the Tribunal for a fresh decision on the question of limitation. We find substance in the suggestion of learned counsel for the respondents.

7. Accordingly, we allow the writ petition; set aside the impugned order and direct the Tribunal to reconsider the issue of limitation afresh, keeping in view the afore-noted facts. Having regard to the peculiar facts of the case, the age of the petitioner and not to prolong the life of litigation further, the Tribunal may also consider deciding the original application on merits.

8. The petition stands disposed of in the above terms.


D.K. JAIN, J


MADAN B. LOKUR, J

MARCH 20, 2003

"v"