
(2018) 07 CAT CK 0126

In the Central Administrative Tribunal

Case No : Miscellaneous Application No. 4569 Of 2017, Original Application No. 4398 Of 2017

Nainu Ram Koli

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 09-07-2018

Acts Referred:

Citation : (2018) 07 CAT CK 0126

Hon'ble Judges : V. Ajay Kumar, J;Nita Chowdhury, Member (A)

Bench : Division Bench

Advocate : G.P. Srivastava, G.D. Chawla, Wanchoo

Final Decision : Dismissed

Judgement

V. Ajay Kumar, J

1. The applicant, a retired Assistant Engineer of the 2nd respondent-Central Public Works Department (CPWD), Ministry of Urban Development, Government of India, filed the OA seeking the following reliefs:-

"(i) Consider the name of the applicant for promotion as Executive Engineer being in zone of consideration in the relevant year; and

(ii) Direct the respondents to grant the applicant notional promotion as Executive Engineer from the date his junior have been promoted with all consequential benefit; and

(iii) Pay arrears of pension and other admissible benefits consequent upon refixation of pension; and

(iv) Any other relief the Hon'ble may deem fit and proper in the facts and circumstances of the case may be granted to the applicant."

He has also filed the MA No.4569/2017 seeking condonation of the delay of 449 days in filing the OA.

2. The brief facts necessary for the purpose of the disposal of the instant MA and OA are that the applicant was appointed as Junior Engineer in the respondent-department on 26.12.1967. He was promoted as Assistant Engineer on 04.02.1981. He was conferred with the benefit of Assured Career Progression Scheme (ACP Scheme) with effect from 26.07.2000. He finally retired on attaining the age of superannuation on 30.09.2003, while working as Assistant Engineer.

3. It is the case of the applicant that one Shri M.L. Sahni, who was also appointed as Junior Engineer on the same date as of the applicant, i.e., on 26.12.1967 and who was also conferred with the ACP benefit on the same date was promoted as Executive Engineer during the year 2000-2001 whereas the applicant was ignored and was made to retire as Assistant Engineer. It is further submitted that a DPC was conducted in the year 2004-05 and some of his juniors such as Shri Sri Krishna were promoted as Executive Engineer. Though the applicant was in the zone of consideration, his name was not considered for promotion as Executive Engineer while his juniors have been promoted. When a news report was published on 12.02.2015 stating that instructions have been issued by DoP&T to all Ministries/Departments to give benefit of promotion to those employees who missed it due to the non conducting of DPCs on due dates, i.e., before their retirement, immediately he preferred a representation on 17.02.2015 seeking to grant promotion as Executive Engineer, but the respondents have not passed any order thereon till date. Even the letters written by the applicant under the RTI Act, 2005 were not answered for long time, though some incomplete information was furnished to him on 24.07.2017.

4. Shri G.D. Chawla for Shri B.L. Wanchoo appearing for the respondents submit that the MA seeking condonation of delay of 449 days is not maintainable as the calculation of delay is incorrect. The applicant retired from service on attaining the age of superannuation on 30.09.2003, i.e., about 14 years back and even the alleged supersession by his juniors was during 2004-05, i.e. about 12 years back. The applicant never claimed any promotion to the post of Executive Engineer and he cannot maintain the MA as well as the OA after a long lapse of time and the claim of the applicant is stale and dead. The issuance of the entire AnnexureA-1 Office Memorandum dated 14.11.2014 does not give any fresh cause of action to the applicant as the OM was only a reiteration of the OM dated 12.10.1998.

5. We have heard Shri G.P. Shrivastava, learned counsel for the applicant and Shri G.L. Chawla for Shri B.L. Wanchoo learned counsel for the respondents and perused the pleadings on record.

6. We find force in the submission made by the learned counsel for the respondents. OM dated 14.11.2014 is only a reiteration of the OM dated 12.10.1998 and hence it will not give any fresh cause of action to the applicant and the delay commences when the alleged juniors of the applicants were promoted as Executive Engineers. The personal difficulties explained by the

applicant were subsequent to the year 2012 only. The applicant failed to explain the long and abnormal delay of more than about 12 years in preferring the OA.

7. In the circumstances and for the aforesaid reasons, the MA as well as the OA on the point of limitation as well as on merit are dismissed. No costs.