

\$~22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8407/2016

HANS RAJ BASHAL

..... Petitioner

Through: Mr. V.S.R. Krishna, Advocate

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Abhay Prakash Sahay, CGSC
with Mr. Gaurav Rohilla & Mr. Arun
Kumar Mishra, Advocates for
respondent No.1

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **07.02.2017**

The petitioner, in this writ petition, impugns the order dated 13.1.2015, whereby his OA No.3920/2013 has been dismissed on the ground of limitation. The impugned order also holds that the petitioner had not acquired the prescribed qualification of degree in engineering or equivalent on or after 1.5.1990 for grant of two advance increments. The letter dated 11.7.1990, it was held, was applicable to those officials/officers who had acquired the prescribed qualification on or after 1.5.1990. The petitioner had acquired the prescribed qualification prior to 1.5.1990.

2. The petitioner retired from service on 21.3.1994. The petitioner palpably did not, during his service career, raise any objection or claim that he was entitled to two advance increments in the Senior Time Scale of ITS Group, in terms of circular dated 11.7.1990.

3. The petitioner, however, claims that since March 1994 till 2011, he had made a number of representations for grant of two advance increments. The first such representation on record is dated 27.10.2009. This representation does refer to an application dated 23.3.1994, but there is no way we can ascertain the said factum. These representations, it is stated, were not replied and answered to. The petitioner, however, states he had received reply dated 18.3.2011 under the Right to Information Act, 2005, stating, *inter alia*, that the representation dated 27.10.2009 received on 7.5.2010 was under examination. Since the matter was old, a lot of old records were required to be examined for processing.

4. In these circumstances, the petitioner filed OA No.3930/2013, which has been dismissed by the impugned order dated 13.1.2015 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi. In our opinion, the Tribunal was justified in dismissing the said OA on the ground of limitation. The cause of action, as per the petitioner, had arisen when the

circular dated 11.7.1990 was issued. The petitioner claims that he was not granted two advance increments. The respondents, on an interpretation of the said circular, were of the opinion that the petitioner was not entitled to grant of two advance increments as only those who had acquired the prescribed qualification on or after 1.5.1990 were granted advance increments. The objective of the said letter was to give an incentive to the serving officials/officers to acquire the higher qualification.

5. The petitioner claims that he had passed graduateship examination of ITE (India), New Delhi in November, 1965. Question would also arise whether this was equivalent to a degree in Engineering. Going into these aspects at a belated stage, with details and particulars being scanty, dissipated and only partially disclosed, would be undesirable and unfair. Any examination and adjudication would require examination of old records to ascertain and know the correct factual position. When such in-depth exercise is undertaken, new but pertinent issues and aspects get uncovered. The law of limitation has a public purpose behind it.

6. Learned counsel for the petitioner had submitted that there was no delay because the petitioner was charge-sheeted and initially even provisional pension was not released, compelling the petitioner to file OA

No.3438/2003, which was disposed of directing the respondents to grant full pension vide order dated 1.11.2004. These aspects, we would only observe, are not germane and are not in any way connected or causally interrelated to the claim of the petitioner for grant of two advance increments.

7. The writ petition has no merit and it is accordingly dismissed. There shall be no order as to costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

FEBRUARY 07, 2017

tp