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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1780/2002

Thursday, this the 1st day of August, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Shri B.L.Sharma
aged about 69 years, son of Shri R.J.L.Sharma
R/O C-9589,
Vasant Kunj, New Delhi

..Applicant

(Applicant in person)

Versus

1. Union of India through the Secretary
Ministry of Railways, Govt. of India
Railway Board, New Delhi

2. Director General, Research Designs &
Standards Organisation, Lucknow

..Respondents

O R D E R (ORAL)

Shri S.A.T. Rizvi:

The applicant, who was promoted as Assistant Research Officer (ARO) on ad hoc basis w.e.f. 27.9.1978, aspired to be promoted to the next higher level of Class-I. By an order passed by the Allahabad Bench of this Tribunal in TA-1683/1987 connected with TA-1725/1987 on 17.10.1989 (A-2), the applicant was enabled to count his regular period of service and seniority w.e.f. 27.9.1978 in Class-II. The Tribunal, in the same order, also held that the applicant would thus complete eight years of service on 26.9.1986, after which date, he was to become eligible for promotion to Class-I. Meanwhile, revised rules came into force w.e.f. 7.9.1985, hereinafter referred to as "1985 Rules". Keeping this in view, the Tribunal, in the aforesaid order, further laid down that the applicant would be considered for promotion to Class-I on the basis of the qualifying service and

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seniority determined as above along with the other eligible persons in accordance with the 1985 Rules. The Tribunal consequently further provided that if the applicant was found fit for promotion by an appropriate DPC, he should be promoted retrospectively from the date of vacancy and should also get consequential benefits of salary and allowances, including arrears. For the sake of convenience, we reproduce below the relevant paragraph of this Tribunal's aforesaid order in the following:-

"19. In the case of petitioner 2, similar principles will apply, as regards seniority and eligibility. He was promoted as ARO on ad hoc basis with effect from 27.9.1978 and he would count his regular period of service and seniority with effect from that date in Class II. He would complete 8 years of service on 26.9.1986, after which date, he becomes eligible for promotion to Class I level. The difference in the case of petitioner 2 is that, by the time he becomes eligible for promotion, 1985 rules would come into operation. We have already held that 1985 rules have to operate with effect from 7.9.1985. Petitioner 2 should, therefore, be considered for promotion to Class I on the basis of the qualifying service and seniority, determined as above, along with other eligible persons whether in RDSO or outside in accordance with 1985 recruitment rules. If he is found fit for promotion by the appropriate DPC, he should be promoted retrospectively from the date of the vacancy and should get consequential benefits of salary and allowances, including arrears."

2. It appears that the aforesaid directions issued by this Tribunal were not complied with and accordingly, contempt proceedings were initiated by the Lucknow Bench of this Tribunal in CCP-14/2000. That CCP came to be decided on 26.7.2001. The Lucknow Bench has, in the said order, observed as under:-

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"6. B.S. Sharma further submitted that the case of the applicant was to be considered by the appropriate D.P.C. whereas the appropriate D.P.C. has not considered the applicant's case. We however, do not find any merit in the submission of B.L. Sharma. B.L. Sharma was not eligible for promotion, he could not be considered for promotion. Further, the D.P.C. was to be constituted as per Recruitment Rules of 1985 and not otherwise. The Tribunal's direction was that in case the applicant is found fit for promotion as per recruitment rules of 1985 only in that he was to be promoted. As the applicant B.L. Sharma was found not eligible for promotion, the same has been refused."

3. Much before the Lucknow Bench decided the aforesaid CCP, the respondents had issued a Memorandum on 5.2.1991 (A-1) by which it was duly conveyed to the applicant that since he did not possess the requisite qualification, he was not found eligible for the post. The aforesaid Memorandum has clearly been issued in pursuance of the orders of the Allahabad Bench of this Tribunal dated 17.10.1989. The applicant has challenged the same belatedly after more than ten years have passed since the aforesaid Memorandum was issued. The only explanation provided by him is that he did not want to proceed in the matter until a decision had been made in the aforesaid CCP. This, in our view, is not a good ground nor is it sufficient for condoning the delay of more than ten years.


4. In the aforesaid CCP, the Lucknow Bench has recorded a finding to the effect that the applicant was not eligible for promotion in accordance with the 1985 Rules. The same Bench has also recorded a finding that the applicant was not found eligible for promotion. In

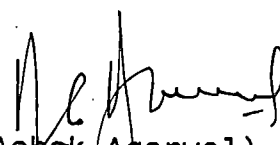
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view of this position, we are convinced that the present applicant has no case on merits.

5. In the light of the foregoing, we conclude that the present OA is devoid of merit and is also time barred. The same is dismissed in limine.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

/sunil/