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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.593/2001

New Delhi, this 13th day of March, 2002

Hon'ble Smt. Lakshmi Swaminathan, VC(J)
Hon'ble Shri M.P. Singh, Member(A)

S.K. Mehta
Station Master, Railway Station
Daya Basti, Northern Railway
Delhi

.. Applicant

(By Shri Sudhir Mehta, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, Delhi
2. Divisional Railway Manager
Northern Railway
New Delhi
3. Divisional Railway Manager
Northern Railway, Ambala

.. Respondents

(By Shri Rajendar Khatter, Advocate)

ORDER

By Shri M.P. Singh, Member(A)

The applicant in this OA was appointed initially as Assistant Station Master in April, 1963. In 1982, he was promoted to the next higher post of Station Master(Rs.455-700). He was due for promotion to the grade of Rs.700-900. Thereafter, he was transferred to Kandaghat Station (HP) where he remained posted upto December, 1993. The Delhi Division was bifurcated in 1987 into two divisions namely Delhi Division and Ambala Division. The staff working in both the divisions were allowed to exercise their option either to go to Ambala Division or Delhi Division. According to the applicant, 44 persons who were junior to him as Station Masters were promoted by the respondents in the year 1984. He was promoted to the next grade of Rs.1600-2600 on 22.11.88.

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2. The applicant filed OA No.899/95 which was decided by the Tribunal vide order dated 24.8.99. But despite that respondents have not given due promotion to the applicant from 1984. Aggrieved by this, he has filed this OA claiming promotions to the grade of Rs.1600-2600 from August, 1984, Rs.2000-3200 from November, 1986 and Rs.2375-3500 from 1992. He retired from service 31.01.97.

3. Respondents in their reply have stated that as per directions given by this Tribunal on 24.8.99 in OA No.899/95, the applicant was granted promotion in Grade Rs.550-750/1600-2660 from 18.7.89 and in Gr.Rs.2000-3200 from 31.10.93 i.e. from the date of his junior working in Delhi Division was promoted. Applicant filed CCF No.233/2000 before this Tribunal which was dismissed on 15.11.2000. Payment of Rs.22,085/ has also been made to him as arrears on account of difference of pay. It is further stated by the respondents that the applicant was given promotion in the grade of Rs.550-750/1600-2660 from the date his junior, namely Shri A.K. Mittal, was promoted in Delhi Division.

4. Heard the contentions of rival contesting parties and perused the records.

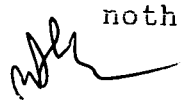
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5. During the course of the arguments, the learned counsel for the applicant submitted that the applicant had earlier filed OA No.899/95 as the respondents have not fixed his seniority correctly and persons shown above him as senior are in fact junior to him. He also admitted that the reliefs claimed in the present OA are the same as claimed in OA No.899/95. However, while disposing of CCP No.233/2000, applicant was given liberty to file a fresh OA.

6. On the other hand, learned counsel for the respondents has submitted that the applicant has claimed the same reliefs as claimed in his earlier OA and therefore the present OA is hit by resjudicata and is not maintainable. He further submitted that the present OA is barred by limitation as cause of action arose to him in the year 1984 when alleged juniors were promoted. In fact the applicant had submitted representations for promotion/seniority in 1985-1986 (Annexes 1 to 3). Therefore, the present OA is hit by laches and delay.


7. We find that the reliefs claimed by the applicant in the present OA, as enumerated above, have also been claimed by his earlier OA (No.899/95) and the same has already been adjudicated by the Tribunal vide its order dated 24.8.1999 and the respondents have also implemented the directions given therein. Even the CCP filed by the applicant has also been dismissed by the Tribunal as nothing survived. Therefore this Bench cannot act as an

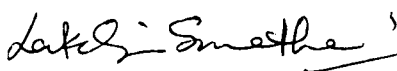


appellate court over the matter already adjudicated on 24.8.99. In so far as the claim of the applicant regarding seniority from 1984 is concerned, law is already settled on the subject that seniority cannot be challenged after a long lapse of time. In the case of K.R.Mudgal & Sons Vs. R.P. Singh & Sons (1986(4) SCC 531), the Hon'ble Supreme Court has observed as under:

"Satisfactory service conditions postulate that there should be no sense of uncertainty amongst the government servants created by the writ petitions filed after several years as in this case. It is essential that anyone who feels aggrieved by the seniority assigned to him should approach the court as early as possible as otherwise in addition to the creation of sense of insecurity in the minds of the government servants there would also be administrative complications and difficulties".

8. For the reasons discussed above, we find no merit in the present OA and the same is dismissed. There shall be no order as to costs.


(M.P. Singh)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman(J)

/gtv/

Copy of Order

No. 24202 DIIC/WRITS/D-2/2008

Dated 2-9-08

From.

The Registrar General
Delhi High Court
New Delhi

To.

1. Union of India, through General Manager, Northern Railway,
Baroda House, New Delhi
2. Union of India, through Divisional Railway Manager, Northern Railway,
Near New Delhi Railway Manager, New Delhi
3. Union of India, through Divisional Railway Manager, Northern Railway, Ambala
4. The Registrar, Central Administrative Tribunal, Principal Bench,
Copernicus Marg, New Delhi

O.A. No-593/2001

WRIT PETITION(C) NO. 1940/2003

Sh. S.K. Mehta

Petitioner/s

Vs.

UOI and others

Respondent/s

Sir,

I am directed to forward herewith for information and immediate compliance/necessary action a copy of order dated **31.7.2008** passed by Hon'ble **Division Bench** of this Court in the above noted case along with a copy of Memo of parties.

Please acknowledge receipt.

Yours faithfully,

[Signature]
Deputy Registrar(Writs)
for Registrar General

CAT (PB), New D.
Receipt No. 26987
Date 8/9/08
Receiving *[Signature]*

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IN THE HON'BLE HIGH COURT OF DELHI :
AT NEW DELHI
{ORIGINAL EXTRA ORDINARY WRIT JURISDICTION}

IN THE MATTER OF :-

EW 1947/83

S.K. MEHTA

VERSUS

...PETITIONER

UNION OF INDIA & OTHERS

...RESPONDENTS

MEMO OF PARTIES

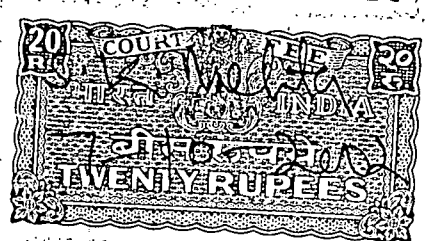
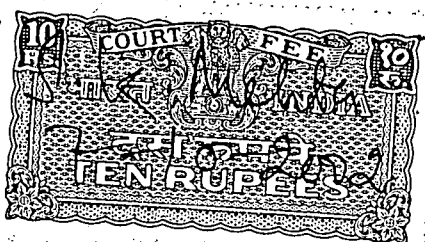
S.K. MEHTA,
STATION MASTER, RAILWAY STATION
DAYA BASTI, NORTHERN RAILWAY,
DELHI.

VERSUS

...PETITIONER

UNION OF INDIA, THROUGH

1. GENERAL MANAGER,
NORTHERN RAILWAY,
BARODA HOUSE,
NEW DELHI.
2. DIVISIONAL RAILWAY MANAGER,
NORTHERN RAILWAY,
NEAR NEW DELHI RAILWAY MANAGER,
NEW DELHI.
3. DIVISIONAL RAILWAY MANAGER,
NORTHERN RAILWAY,
AMBALA.



By
S. Mehta
Chudhri K. Mehta
Counsel

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Present: Mr. Sudhir Kumar Mehra, Adv. for the Petitioner.
Mr. Sanjay Kumar Pathak, Adv. for the Respondent.

+ WP(C) No. 1940/2003

The Petitioner is aggrieved by an order dated 13th March, 2002 passed by the Central Administrative Tribunal, Principal Bench in OA No.593/2001.

The Petitioner had earlier filed OA No.899/1995 in which the following prayer was made: -

"In view of the facts explained above and humble submissions made in the foregoing paras, this Hon'ble Tribunal be graciously be pleased to direct the Respondents to give due promotion to the Petitioner by giving him Grade of Rs.1600-2660 from August 1984 and thereafter to the Grade of Rs.2000-3200 from November 1986 to till date. It is further prayed that the Respondent be directed to clear all the outstanding arrears of salary as per the entitlement of the Petitioner with interest."

That OA was heard and disposed of by the Central Administrative Tribunal by an order dated 24th August, 1999. While disposing of the OA, the Tribunal gave a direction to the Respondents to take a final decision on the seniority of the Petitioner in the Delhi Division, unless such a decision has already been taken.

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Learned counsel for the Petitioner informs us that a decision was then taken on the seniority of the Petitioner but that decision is not on record and indeed, there is no challenge to that decision at all.

The Petitioner then filed another OA being OA No.593/2001. The impugned order has arisen out of that OA. The relief claimed in the second OA reads as follows:-.

"In view of the facts explained above and humble submissions made in the foregoing paras this Hon'ble Tribunal be pleased to direct the Respondents to give due promotion to the Petitioner by giving him Grade of Rs.1600-2660 from August 1984 and thereafter to the Grade of Rs.2000-3200 from November, 1986 and thereafter to the Grade of Rs.2375-3500 from 1992. It is submitted that during the pendency of contempt petition filed by the Petitioner in OA No.899/1995 and C.P. No. 233/2000, the Railway Administration, that is, Respondents have made payment of arrears to the Petitioner from 1989, whereas the Petitioner is due his promotion from August, 1984. The Hon'ble Tribunal vide its judgment order dated 15th November, 2000 was pleased to pass an order mentioning that the Petitioner will be at liberty to institute a fresh OA if the petitioner is otherwise entitled in law. Hence, this fresh OA is being filed for the balance relief as per the directions of the Hon'ble Central Administrative Tribunal.

It is further prayed that the Respondents be directed to clear all the outstanding, that is, arrears of salary as per the entitlement of the Petitioner with up to date interest from 1984 till date of retirement."

A perusal of the relief claimed in the second OA shows that it is more or less identical to the relief claimed in the first OA, the principal relief being

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fixation of the seniority of the Petitioner from August, 1984 onwards.

The Tribunal dismissed the second OA by holding that it was barred by the principles of res-judicata. It was also noted that there was an enormous delay in claiming seniority from 1984 and, therefore, on the ground of delay and laches, the claim of the Petitioner could not be entertained.

The Tribunal has also adverted to an order passed in CP No. 233/2000 which was a contempt petition filed by the Petitioner subsequent to the decision of the first OA. In his contempt petition, the Petitioner had alleged that the order passed in the first OA had not been complied with. The Tribunal did not find any merit in this submission and therefore the contempt petition was dismissed on 15th November, 2000. However, the Tribunal gave liberty to the Petitioner to institute a fresh OA, if he was otherwise to entitled in law.

The only claim that could at all be alive in respect of the Petitioner is in regard to the order passed by the Respondents subsequent to the disposal of the first OA on 24th August, 1999. As we have mentioned above learned counsel for the Petitioner says that an order was passed but that has not been challenged by him.

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Under these circumstances, we do not find any infirmity in the order
passed by the Tribunal.

The writ petition is dismissed.

^{sd/-}
MADAN B. LOKUR, J

^{sd/-}
J.R. MIDHA, J

JULY 31, 2008
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