

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.322/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 3rd day of November, 2000

Shri S.D.Sharma
s/o Sh. Balkishan Sharma
working as Assistant Engineer
Delhi Metro Road Corporation
NBCC Palace, Bhishampitama Road
New Delhi. ... Applicant

(By Shri S.K.Sawhney, Advocate)

Vs.

1. Union of India through
General Manager
Eastern Railway
Calcutta.
2. Chief Personnel Officer
Eastern Railway
Howrah.
3. Divisional Railway Manager
Eastern Railway
Howrah. ... Respondents

(By Mrs. Meera Chhibber, Advocate)

O R D E R (Oral)

Justice V. Rajagopala Reddy:

The applicant was initially appointed in 1979 in the post of Permanent Way Inspector in the scale of Rs.1400-2300 in Howrah Division of Eastern Railway. He was then selected for the post of Permanent Way Inspector, Gr.I during 1990 in the office of Senior Divisional Engineer, Mughal Sarai and the respondents issued the letter dated 18.11.1990 for arranging attendance of the applicant to attend the selection. At that time the applicant was working on a project at Malaysia. The persons junior to the applicants were promoted to PWI, Gr.I on 19.3.1991 and on return of the applicant to his parent department on 18.2.1994, he qualified in the selection and was promoted to the

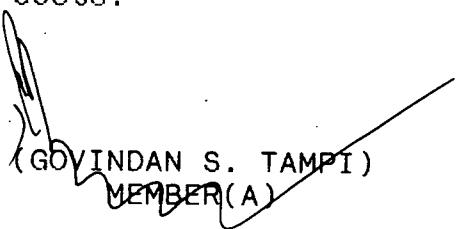
post of PWI Gr.I on 19.2.1995 w.e.f. 19.3.1991, that is the date his immediate junior was promoted. In the meanwhile, selection for the post of Assistant Engineer Class-II was also held but the applicant could not be considered as he was on deputation in IRCON and working on a project abroad. After resumption he was also qualified in the selection for the post of Assistant Engineer Gr.II and was promoted w.e.f. 23.5.1996. But the persons junior to the applicant, S/Shri V.K.Gupta, S.Dube and Bhure Lal were promoted to the post of Assistant Engineer w.e.f. 25.5.1995, 5.6.1995 and 14.6.1995 respectively, as a result of their selection for the post of Assistant Engineer held in 1993. The seniority list of Assistant Engineers was issued on 3.4.1997. The present OA is filed questioning seniority of the applicant in the cadre of Assistant Engineer vis-a-vis his juniors.

2. The respondents raises a preliminary objection as to the limitation. It is contended that as the seniority list has been intimated to the applicant on 3.4.1997 and his representation dated 19.4.1997 was rejected on 8.5.1997, if the applicant was aggrieved by his position in the seniority list, he should have approached the Tribunal within the period of limitation of one year from the date of rejection. The OA filed in 1999 is barred by limitation. The learned counsel for the applicant however submits that as the rejection order, Annexure-A1, 8.5.1997 is bereft of any reasons, he made another representation dated 11.8.1997, Annexure-A10 and as the same was nor responded to, the

OA cannot be said to be barred by limitation as it was filed within one year after waiting six months for the disposal of the representation.

3. Having heard the counsel for the applicant and the respondents, we find much force in the preliminary objection. The facts are not in dispute. As the applicant was abroad during the selection for the post of Assistant Engineer in 1993 and as he was not available for selection, his juniors were promoted to the post of Assistant Engineer. After the applicant returned from abroad, he got selected to the post of Assistant Engineer in 1995, and was promoted in 1996. The applicant's grievance is that he should have been given the promotion from the date when his juniors were promoted. Thus, the adverse order in this case is the order passed on 23.5.1996 by which his juniors were promoted. Subsequently, the seniority list in the post of Assistant Engineers was also issued in April, 1997 against which the applicant made a representation and it was rejected in 1997 itself. It is therefore clear that the applicant had no reason to approach this Tribunal at this belated stage. The applicants having not ~~been~~ filed this OA within one year from the date of the rejection of the first representation, the OA should be held as barred by limitation under Section 21 of the Administrative Tribunals, Act, 1985. We find no merit in the submission that the order of rejection was bereft of reasons he was entitled to question that order by filing another representation. Section 21 of the Administrative Tribunals Act, 1985 contemplates either an appeal or revision or representation i.e. one

representation only against the final order. The final order, in this case, even taking seniority list as final order, it was passed in April, 1997 and his representation was rejected on 8.5.1997. The OA was filed in 8.2.1999. Thus we find that the OA was not filed within the period of limitation. The OA is accordingly dismissed on the ground of limitation. No costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/