

Central Administrative Tribunal  
Principal Bench

R.A.No.100/98  
M.A.No.2004/98 in  
O.A.No.274/98

Hon'ble Mr. Justice K.M.Agarwal, Chairman  
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 28<sup>th</sup> day of May, 1998

Shri S.K.Pathak  
I.O.W., Palampur, Grade-III  
Northern Railway  
Ferozepur Division. .... Applicant

Vs.

1. Union of India through  
Ministry of Railways through  
its Secretary, Rail Bhawan  
New Delhi.
2. Northern Railway  
through its Executive Director  
Establishment (N)  
Railway Board  
New Delhi. .... Respondents

O R D E R (By Circulation)

Hon'ble Shri R.K.Ahooja, Member(A)

The petitioner seeks review of the order dated 3.2.1998. He has also filed an MA No.2004/98 for condoning the delay in filing the RA after the time limit of 30 days. In so far as MA 2004/98 is concerned, the ground for delay given is that the applicant is staying at Mukerian in District Hoshiarpur and as such he could not take early steps to file the RA, more so, because his wife had been seriously ill. We are accepting the grounds adduced in MA. MA is allowed and delay is condoned.

2. In so far as the Review Petition is concerned petitioner submits that the Tribunal has wrongly dismissed the OA No.274/98 on the ground of limitation. OA had been filed seeking refixation of seniority w.e.f. 5.3.1962. The Tribunal had concluded in the impugned

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order that on his own showing, the cause of action accrued to the applicant at the latest in 1992 and even from that date the applicant had been slack in approaching the Tribunal in time. The Petitioner submits that the DO letter written by the Dy. Director, Establishment (R)I addressed to Chief Personnel Officer(I.R.), Northern Railway had contained certain directions in favour of the applicant. This letter was dated 12.4.1996. Therefore, he submits that the limitation starts from that date. He has also cited a number of Judgments of the Supreme Court to establish that the Tribunal fell in error while dismissing the OA on the basis of limitation.

3. We have carefully considered the ground adduced but find no merit therein. The correspondence quoted by the applicant is an internal correspondence between officers of the railway and is not a communication addressed to the applicant, conveying a decision on the merits of his case. As regards the law laid down by the Supreme Court, it is necessary to see whether the ratio of the same is applicable in his case since a decision takes its colour from the questions involved in the case in which it is rendered. Hon'ble Supreme Court has held in Administrator Daman & Dau Vs. R.D.Valand, 1995(4) SCC 593 that the Tribunal would not be justified in putting the clock 15 years back and brushing aside the question of limitation on the ground that the applicant was making frequent representations. It has also been held in P.K.Ramchandran Vs. State of Kerala & Another, JT 1997(8) SC 187 that Law of limitation may harshly effect a particular party but it has to be applied with all its rigour. In Rattan Chandra Sammanta & Others Vs. Union

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of India, JT 1993(3) SC 418 it was held that lapse of over 15 years delay deprives the person of remedy available in law and one who loses the remedy by lapse of time also loses his right. In any case, it was the conclusion of the Tribunal that the OA was barred by limitation and if the petitioner is aggrieved with that conclusion, it is open to him to challenge the same before the appropriate forum.

4. In view of the above discussion, the RA is summarily rejected.

*KM*

(K.M. Agarwal)  
Chairman

*R.K.Ahooja*  
(R.K. Ahooja)  
Member(A)

/rao/