

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-468/98

16

New Delhi this the 12<sup>th</sup> day of March, 1999.

Hon'ble Shri T.N. Bhat, Member(J)  
Hon'ble Shri S.P. Biswas, Member(A)

1. Sh. A.K. Srivastava,  
S/o Sh. L.N. Srivastava,  
R/o E/167, New Vijay Nagar,  
New Delhi.
2. Sh. Ghanshyam Singh,  
S/o Sh. Ram Khelawan,  
R/o C/44, New Vijay Nagar,  
Ghaziabad.
3. Sh. Gyan Prakash Gupta,  
S/o Sh. K.P. Gupta,  
R/o 633, Mewai Road,  
Old Vijay Nagar,  
Ghaziabad.
4. Sh. K.K. Bajpayee,  
S/o Sh. R.D. Bajpayee,  
R/o E/174, New Vijay Nagar,  
Ghaziabad.
5. Sh. Mithlesh Verma,  
S/o Sh. M.P. Verma,  
R/o E/167, New Vijay Nagar,  
Ghaziabad.
6. Sh. J.K. Singh,  
S/o Sh. Indrajit Singh,  
R/o J-105, New Vijay Nagar,  
Ghaziabad.
7. Sh. O.P. Yadav,  
S/o Sh. Sadhu Prasad,  
R/o E/167, New Vijay Nagar,  
Ghaziabad.
8. Sh. Sunil Nandan,  
S/o Sh. Raghunandan,  
R/o Ram Vihar Colony,  
Loni, Ghaziabad.
9. Sh. Tehzibuddin,  
S/o Sh. Hakimuddin,  
R/o 633, Mewai Road,  
Old Vijay Nagar,  
Ghaziabad.
10. Sh. M.K. Srivastava,  
S/o Sh. R.P. Srivastava,  
R/o F-16, Sector-9,  
Vijay Nagar, Ghaziabad.

.... Applicants

(through Sh. M.L. Sharma, advocate)

versus

- ✓ 1. Union of India through  
General Manager,  
Northern Railway Headquarters  
Office, Baroda House,  
New Delhi.

2. Divl. Rail Manager,  
Northern Railway,  
New Delhi.

..... Respondents

(through Sh. R.L. Dhawan, advocate)

ORDER

Hon'ble Sh. S.P. Biswas, Member(A)

The short question that arises for determination is whether A-1 seniority list dated 21.1.97, based on the promotional orders dated 20.04.90 as at R-3, could be questioned through an O.A. filed on 20.02.98?

2. Before we examine the legalities of the aforesaid basic issue, it would be appropriate to bring out the background facts in a nutshell. The applications were invited by the Railway Recruitment Board/Allahabad through a combined examination held for recruitment of Accounts, Enquiry and Reservation Clerks (EC & RC for short) and Guards Grade-C. The written examination took place on 08.02.87, whereas the interviews were held on 10.08.87 and 21.08.87. The applicants were initially placed in the panel for the post of Guards as per the results declared on 11.10.87 (Annexure A-2). Persons who were on the panel of EC & RC were given appointments soon after its finalisation but those who were in the panel for posting as Guards could not be offered appointment letters immediately. As there were pressing demands for officials in the cadre of EC & RC, the respondents (No.1 in particular) decided

18

✓ to convert the sanction of Guards for EC & RC and issued orders for engaging the applicants. The applicants were straightaway utilised as EC & RC in March 1990 with their prior consent after providing training for 21 days as a measure of imparting working knowledge subject to passing of T-12 course at Zonal Training School/ Chandausi. The applicants ultimately passed T-12 course in March 1991. The applicants have assailed A-1 seniority list on a large number of grounds. The important ones are as under:-

(i) Applicants were born on the same panel but their appointment as EC & RC were delayed for no fault of theirs resulting in deflating their seniority below the EC & RC Clerks born on the same panel declared on 10.11.87.

(ii) That the applicants were medically examined in March 1990 and appointed earlier to the date of appointment of employees at Sl. No. 46 to 48 in the seniority list and yet the applicants have been illegally shown as junior to them (Sl. No. 46 to 48). As per the learned counsel for the applicants those who were appointed on compassionate grounds, like the employees at Sl. No. 46 to 48 could not be blessed with

2  
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better seniority in terms of the decision of this Tribunal in the case of A.B. Muranjan & Ors. Vs. U.O.I. & Ors. (1998(2) SLJ CAT 191).

- (iii) Employees at Sl. No. 228, 230 & 237 were sent for training at T-12 course only on 31.3.94 i.e after the applicants had taken the course but they have been made senior to the applicants.

3. The respondents have resisted the claims. It is submitted that the persons at Sl. No. 49 to 123 were regularised as EC & RC in grade of Rs.1200-2040 vide orders dated 20.4.90 and the orders contained specific stipulation that they have been empanelled provisionally as EC & RC and will be assigned seniority with effect from 01.04.990. In terms of provisions under Rule 303(a) those who joined subsequent course for any reason whatsoever and those who passed the examination in subsequent chances will rank junior to those who had passed the examination in an earlier course. The seniority list as at A-1 is based on the provisions laid down in para 303(a) of IREM/Vol.I-1989 and this cannot be faulted. The respondents have also denied that instructions contained in para 311 of IREM

20

are not applicable in the case of the applicants and that are only applicable in the case of serving employees.

4. We have heard the learned counsel for the parties and perused the records carefully. It is not in doubt that A-1 seniority list is based on the orders of regularisation of Coaching Clerks as indicated in respondents order dated 20.04.90. The said order indicates "the following Coaching Clerks Grade-975-1540 who were continuously officiating as EC & RC on ad hoc/local basis from the date shown against each, on completion of 3 years officiating service as EC & RC....are deemed to have been empanelled provisionally and as such their seniority as EC & RC in grade Rs.1200-2040 will be assigned w.e.f. 10.04.90." The aforesaid order, containing names of as many as 124 officials, were issued almost a decade before. We find that copies of the orders were also marked to those places where the applicants were also working besides marking them to the offices of the recognised unions. The applicants would say that they could come to know of their seniority having been deflated only through A-1 seniority list. We are unable to accept such contention of the applicants since R-3 order was a general order meant for officials working at locations where the applicants have been placed and working. If applicants knew that they were senior to many in the R-3 promotional order dated 20.04.90, they could have agitated at that time. They were not required to wait till the publication of the A-1 seniority list. In

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21

otherwords, if the applicants were aggrieved by the order dated 20.4.90 in terms of which certain Coaching Clerks were deemed to have been empanelled and assigned seniority w.e.f. 01.04.90, the applicants ought to have filed their application within the period of limitation. Raising such a seniority issue after a lapse of almost 9 years cannot be supported in the eyes of law. It is well settled that the law does not provide any helping hand to those who remain silent/dormant on their rights. The plea of the applicants deserves to be dismissed in terms of the law laid down by the Apex Court in the case of ML Cecil De Souza Vs. Union of India (AIR 1986 SC 2086) wherein it has been observed that it is essential that any one who feels aggrieved with an administrative decision affecting one's seniority should act with due diligence and promptitude and not sleep over the matter. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties. It would, therefore, appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after a lapse of some time. Thus the Hon'ble Supreme Court laid down that if a person is sleeping over his rights and there is undue delay in approaching the Tribunal, the application deserves to be dismissed on laches alone.

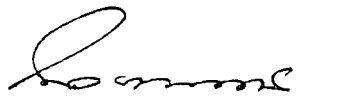
5. It is also seen that reliefs given to applicants would adversely affect those employees at Sl.No. 49 to 123 in whose favour some rights have

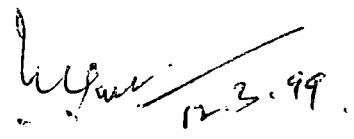
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22

✓ accrued. They have not been joined as party respondents in this O.A. This is a legal infirmity in terms of non-joinder of necessary parties.

6. In view of the above, the O.A. deserves to be dismissed on ground of limitation as well as non-joinder of necessary parties and we do so accordingly. No costs.

  
(S.P. Biswas)  
Member (A)

  
(T.N. Bhat)  
Member (J)