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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

O.A. No.733 of 1998 decided on 25<sup>th</sup> 8.1999

Name of Applicant : Tarlochan Singh

By Advocate : Shri J.K.Bali

Versus

Name of respondent/s Secy.Min.of Railways & others

By Advocate : Shri B.S.Jain

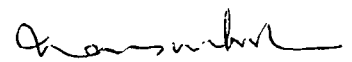
Corum:

Hon'ble Mr.Justice V.Rajagopala Reddy, Vice Chairman

Hon'ble Mr.N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes

2. Whether to be circulated to the other Benches of the Tribunal. -No



(N. Sahu)  
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 733 of 1998

New Delhi, this the 25<sup>th</sup> day of August, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN  
HON'BLE MR. N. SAHU, MEMBER (A)

Tarlochan Singh, S/o Sh. Gokal  
Singh, R/o 90 D/3, Railway  
Colony, Tughlaqabad, New Delhi-44  
Working as Power Controller,  
Under Senior Crew Controller,  
Tughlaqabad, New Delhi-44.

- APPLICANT

(By Advocate - Shri J.K. Bali)

Versus

Union of India, through

1. The Secretary to the Ministry of  
Railways, Rail Bhawan, New  
Delhi.
2. The General Manager, Northern  
Railway, Baroda House, New  
Delhi.
3. The Divl. Railway Manager,  
Delhi Division, Northern  
Railway, State Entry Road, New  
Delhi.

- RESPONDENTS

(By Advocate - Shri B.S. Jain)

O R D E R

By Mr. N. Sahu, Member (Admny)

The prayer in this Original Application is to  
quash the medical decategorization of the applicant and  
to direct the respondents to treat him as though he was  
not decategorised at any stage.

2. The grievance arose in the background of the  
following facts:- the applicant while working as  
Electrical Driver Goods (Grade Rs. 1350-2200) was declared  
medically unfit for train working duties by virtue of  
Annexure-R-1, but fit in "A-One & below for a sedentary  
job only". A committee of three officers reviewed his  
case, whereafter he was appointed to the post of Shedman.

On his representation he was again examined by a Specialist in June, 1997 but yet he was not declared fit for running duties. He was found fit only in "A-One with glasses from vision point of time". He was promoted as Power Controller in the grade of Rs.6500-10500 in September, 1997 (Annexure-A-6). One Shri Lallan Electrical Assistant in Delhi Division medically decategorised on 31.10.1991 because of ECG defect and posted as a Clerk was promoted as a Goods Driver by an order dated 11.3.1997 because of an order of this Tribunal in OA No.1347/94 dated 12.1.1995. By this order a direction was given to the respondents to restore the applicant to the post of Electrical Assistant. The applicant claims the similar benefit as that of Shri Lallan on the ground that he is similarly placed.

3. On the question of limitation and on the ground he is similarly placed he cites the following decisions :- (i) K.C.Sharma and others Vs. Union of India and others, 1998 (1) SLJ 54, (ii) Madras Port Trust Vs. Hymanshu International 1979(1) SLR 757; (iii) Arun Kumar Chatterjee Vs. South Eastern Railway & ors, 1985 (1) SLR 500. The applicant has filed an application for condonation of delay.

4. The respondents resist this application. They state that the applicant was not found fit for running duties even after a re-examination by the Chief Cardiologist, and this was communicated to him by letter dated 28.8.1997. They state that the OA has been filed in the year 1998. Even when he came to know about Shri Lallan's promotion in the year 1995 he did not wake up

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and move the Tribunal to redress any grievance that he had. The respondents relied upon the decision of the Supreme Court in the case of Bikram Dass Vs. Financial Commissioner & others, AIR 1977 SC 2221 and Ram Lal and others Vs. Rewa Coalfields Ltd., AIR 1962 SC 361. Shri Jain, learned counsel for the respondents further relied upon the following decisions of the Supreme Court in support of his contention that the OA. is barred by time :- Rattan Chandra Samantha Vs. Union of India, AIR 1993 SC 2276 = JT 1993 (3) SC 418; Bhoop Singh Vs. Union of India and others, AIR 1992 SC 1114 = ATR 1992 (2) SC 728; P.K. Ramachandran Vs. State of Kerala, JT 1997 (8) SC 189, State of Karnataka Vs. S.M. Kotrayya, 1996 SCC (L&S) 1488.

5. We have carefully considered the submissions of rival counsel. We are satisfied that this OA deserves to be dismissed both on the ground of merits as well as on limitation. We are satisfied that the delay is inordinate. The applicant was decategorised by a medical test on 23.7.1990. He was put to work as a Shedman with effect from 4.9.1991. He himself voluntarily accepted the same. In November, 1995 he was prevented from applying for the post of Power Controller on the ground that he had been medically decategorised. He acquiesced in the order of decategorisation in September, 1991 and the decision to prevent him from applying for the post of Power Controller in February, 1995. His acquiescence to both the situations estops him from agitating the matter after such a lapse of time. Subsequently, the Railway Board issued instructions dated 16.5.1996 in view of acute shortage permitting even medically "decategorised" drivers to be appointed as Power Controller whereupon he

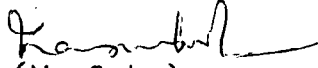
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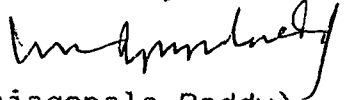
(16)

was considered and subsequently appointed in 1997. We do not understand as to how and why Lallan's case can be compared with that of the applicant. We emphasise on the fact that even in 1997 he was not considered medically fit after examination by the specialists. We cannot sit on appeal over the decision of the medical specialists. The question of applying the decision of a Tribunal to a similarly situated person does not arise. Statute of limitation applies to all Suits including Applications under the Administrative Tribunals Act, 1985 and orders in similarly placed cases cannot give a fresh cause of action or to run the limitation afresh. That apart, the decision of the Tribunal in Lallan's case is a decision on the facts of that case. It does not lay down any rule of law for application to all other persons. Further, we are satisfied that the decision of the Constitution Bench of Supreme Court in K.C.Sharma's case (supra) is not applicable to the facts of the case. That was a case where a rule was examined and quashed by a Full Bench of the CAT in O.A.No. 395-403 of 1993 decided on 16.12.1993. It was a case of application of a principle of law and, therefore, no particular individual can be discriminated. As the order of the Full Bench was approved by the Hon'ble Supreme Court in Chairman, Railway Board & others Vs. C.R.Rangadhamaiah, Civil Appeal Nos. 4174-4182 of 1995 the proposition laid down therein is a proposition of law. There is no question of limitation involved in such a case. Lallan's order is confined to the facts of that case. That apart it does not require any profound legal knowledge to say that when repeatedly medical experts declared a particular person to be unfit after extensive tests for a particular job,



the applicant was rightly not allowed to do that job and he could not canvas against such an order on merits. The fact that he delayed the matter for 8 years goes against him. The OA is dismissed on account of limitation as well as on merits. NO Costs.

  
(N. Sahu)  
Member (Admnv)

  
(V. Rajagopala Reddy)  
Vice Chairman

/rkv/