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OA 87/95.

Central Administrative Tribunal
Principal Bench: New Delhi

New Delhi this the 17th day of October 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

1. Smt. Vidyavati
2. Rajinder Kumar Sharma
R/o Gali No.39
Gaur Bhavan
Sadh Nagar
Palam Colony
New Delhi-45

...Applicants.

(By Advocate: Shri V.P.Sharma)

Versus

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi
2. The Divisional Railway Manager
Northern Railway
Bikaner
3. The Secretary
Railway Board
Rail Bhavan
New Delhi.

...Respondents.

(By Advocate: Shri R.L.Dhawan)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This is an application filed by Smt. Vidyavati and Shri Rajinder Kumar Sharma, widow and son of Ram Kishore Sharma who was a railway employee. Shri Ram Kishore Sharma was retired compulsorily invoking provisions of Clause (h) of Rule 2046 of Indian Railway Establishment Code Vol.II on 12.2.1974 by order dated 20th August 1974. Shri Ram Kishore Sharma challenged his compulsory retirement before the Additional Civil Judge. This however was later transferred to the Jodhpur Bench of the CAT under Section 29 of the AT Act and the same was renumbered as TA 1813/86. By order dated 19.10.92, the transferred application was disposed of setting aside the order of compulsory retirement of Shri Ram Kishore Sharma with all consequential benefits. Before the final order of the transferred application was passed, Shri

Ram Kishore Sharma had already expired on 30.1.1992. It was directed in the judgement that Shri Ram kishore Sharma should be deemed to have continued in service till the date of his superannuation and the consequential benefits paid to his legal heirs. Pursuant to the above judgement, arrears of pay and allowances and other consequential benefits due as on the date of his superannuation on 30.7.80 were given to his legal heirs. After the judgement, the first applicant submitted a representation to the General Manager, Northern Railway claiming that Shri Ram Kishore Sharma was a loyal worker and had not participated in the railway strike in the year 1974, his son was entitled to employment under the Railway and requesting the General Manager to consider the second applicant for appointment on Group-III post. Though the request was repeated by subsequent representation, there was no response. It is under the circumstances the applicant came to CAT for a direction to the respondents to appoint the second applicant on a post commensurate with his educational qualifications. According to the applicant, as Shri Ram Kishore Sharma was a loyal worker during the strike his dependent was entitled to be appointed as a reward in terms of the Railway Board's letter dated 4.6.74.

2. The respondents have raised the preliminary objection that the application is barred by limitation. According to the respondents, though Ram Kishore Sharma was compulsorily retired w.e.f. 12.9.74 if he had a rightful claim according to the Railway Board's letter, he should ^{have} made an application for award of any one of the rewards mentioned in the Railway Board's letter dated 4.6.74 and that for that reason as the claim ~~has been~~ put forth decades after the date, the application has to be rejected as time barred.

3. They have further contented that according to the Railway Board's letter dated 16.7.76 (Annexure R-2), an application received for extension of the benefits under letter dated 4.6.74 upto 31.12.75

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alone ^{will} be considered. In any case, according to the respondents, as the application has been filed long after the right if any accrued, the same does not deserve consideration.

4. The applicant has filed rejoinder ~~re~~iterating the contentions put forth in the OA.

5. Having perused the pleadings and the documents on record and after hearing Shri V.P.Sharma, learned counsel of the applicants and Shri R.L.Dhawan of the respondents, we are convinced that the application is not maintainable as the claim has been put forth after inordinate delay. It was ^{attempted} ~~conducted~~ to show that the period of limitation started only after the disposal of the transferred application no.1813/86. Shri Sharma argued that shortly after the disposal of the transferred application, a claim was made by the first applicant for the reward of employment to the second applicant and that the period of limitation should be counted only from the date of representation made after the disposal of the OA. Shri Dhawan argued that for putting forth a claim for reward under the letter dated 4.6.74, it was not necessawry for the applicant or for Shri Ram Kishore Sharma to wait for the disposal of the transferred application. The transferred application, according to Shri Dhawan, was only in respect of whether the compulsory retirement of Ram Kishore Sharma was valid and in order and not whether Ram Kishore Sharma had rendered outstanding service during the strike of 1974. If the question whether Ram Kishore Sharma had rendered outstanding service during the strike was an issue in the transferred application and it was finally adjudicated only in a case, according to Shri Dhawan, it could be said that the limitation would commence after the OA was disposed of. Since that was not one of the issues, it was ~~bounden~~ ^{bounden} for Ram Kishore Sharma to put forth his claim for employment for his son any time after the ^{letter} ~~issue~~ was circulated by the Railway Board within a reasonable time. That ^{was} ~~they have~~ not done. Shri Dhawan argued that the application has to be rejected on the gound of

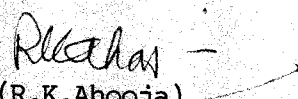
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limitation. We find considerable force in the argument. The grant of employment for the son of Ram Kishore Sharma is not one of the consequential benefits that would flow from the order of the Tribunal in the transferred application No.1813/86.

The claim arising out of the circular of the Railway Board dated 4.6.74 could have been made by Ram Kishore Sharma long before the disposal of the transferred application. As a matter of fact, it is seen that Ram Kishore Sharma himself had made more than one representation claiming employment for his son, the latest being the one made in 23 Nov. 1990. Even counting the period from that date, the application having been not filed within 18 months is beyond the period of limitation and cannot be admitted.

6. Under the circumstances, we are of the considered view that the claim put forth in this application being beyond the period of limitation, the application has only to be rejected.

7. In the result, in the light of what is stated above, the application is rejected under Section 19(3) of the AT Act as the same has been filed beyond the period of limitation., leaving the parties to bear their own costs.


(R.K.Ahooja)
Member (A)


(A.V.Haridasan)
Vice Chairman (J)

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