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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 83/1996

New Delhi, this 24th day of May, 1996.

Hon'ble Shri B.K. Singh, Member(A)
Hon'ble Dr. A.Vedavalli, Member(J)

S/Shri

1. F.S. Kataria
2. Ram Bilas Sonkar
3. Ganga Prasad
4. Ram Kumar
5. Samarth Singh
6. Yogesh Kumar Rajora
7. Mahesh Kumar
8. Balvinder Singh
9. Sewa Ram
10. Gyan Singh,
all working as Head Inquiry &
Chief Reservation Clerks, IRCA
Building, Northern Rly, New Delhi

.. Applicants

By Shri P.L. Mimroth, Advocate

Vs.

Union of India, through

1. Chairman
Railway Board
Rail Bhavan, New Delhi
2. General Manager
Northern Railway
Baroda House, New Delhi

.. Respondents

By Shri N.K. Aggarwal, Advocate

ORDER (oral)

Hon'ble Shri B.K. Singh

The learned counsel for the applicants has now produced a copy of Notice No.752-E/553-II/Fixation/EIC dated February, 1991. This application has been filed on 11.1.96 seeking promotion of the applicants in the quota of SC/ST as a result of restructuring of the cadre. The reliefs prayed for in the OA are:-

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- (a) To direct the respondents to promote the applicants in the grade of Rs.425-640 w.e.f. 1.1.84 and give them all consequential benefits;
- (b) To include the names of the applicants at appropriate place in the seniority list of grade Rs.1400-2300; and
- (c) To direct the respondents to pay costs.

2. On notice, the respondents filed their reply contesting the application and grant of reliefs sought for.

3. During the course of arguments, the learned counsel for the respondents raised a plea of limitation and cited the judgement of Hon'ble Supreme Court in case of S.S.Rathore Vs. State of MP AIR 1990 SC 10 wherein it has been categorically held that the AT Act, 1985 has prescribed the period of limitation u/s 21 of the Act^{which stipulates} that a person has to approach the competent court within one year if no representation/appeal is filed and within 18 months if a representation/appeal ~~is~~ filed. In the case of State of Punjab Vs. Gurdev Singh 1991 4 SCC Page 1, the Hon'ble Supreme Court has held that an aggrieved party has to approach the court within the statutory period prescribed since after the expiry of that period the court can not grant the relief prayed for. This view has been reiterated in case of UOI Vs. Ratan Chandra Samanta JT 1993(3)SC page 418, wherein it was held that with the passage of time~~xxx~~ the remedy available to the aggrieved person ^{and with the loss of remedy} is lost, the right also is lost alongwith it. In case of ex-Captain Harish Uppal Vs. UOI JT 1994(3) p.126, the

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Hon'ble Supreme Court has held that the parties are expected to pursue their rights and remedies promptly and if they just slumber over their rights, the court should decline to interfere. The delay defeats equity. This view has been repeatedly held in a catena of other judgements. In its latest judgement in case of Secretary to Govt. of India & Ors. Vs. Shivram Mahadu Gaikwad 1995 ATC 635, the Hon'ble Supreme Court has held that the limited power which is vested in the Tribunal is prescribed under section 21 and the Tribunal can consider condonation of delay only when a MA is filed to that effect. No MA has been filed for condonation of delay and as such exemption from limitation can not even be considered. As per the ratio of the above cited judgements, we are unable to consider the reliefs sought for.

4. The learned counsel for the applicants in the rejoinder has quoted the judgement in case of G.C. Mesh Ram Vs. DRM, SE Rly ATC 1991(15)p.274, Bombay. It was the case of termination without serving any show cause notice on the applicant and therefore it was held that notice is necessary before the services are terminated. Therefore, the ratio of this judgement is not applicable to the instant case. The second judgement cited is the case of S.G.W dekar Vs. UOI ATC (1989)11 p. 188 Bombay. This is a judgement relating to non-implementation or faulty implementation of a policy decision. The ratio of this judgement is also not applicable to the instant case. The ratio of the judgement in case of Parupkar Singh Soni Vs. UOI 1988 ATC 8 p.568 deals with time-barred cases and

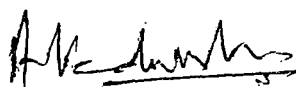





adjudication on merits provided Government gives a consent for opening such a time-barred case. This also is not applicable to the instant case.

As regards the Parliament Question mentioned by the learned counsel, it was a reply given by the Prime Minister to the question whether the percentage prescribed for the SC/ST has been followed by giving reservation to the Members of SC/ST community. The reply is in the affirmative referring presumbaly to the judgement of the Hon'ble Supreme Court in case of J.C. Malik. Therefore, these do not help the applicants.

5. The preliminary objection regarding limitation raised by the ld. counsel for the respondents has not been effectively rebutted by the ld. counsel for the applicants and, therefore, the same is sustained. This application therefore fails and is dismissed leaving the parties to bear their own costs.


(Dr. A. Vedavalli)
Member (J)
24.5.96


(B. K. Singh)
Member (A)
24.5.96

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