

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 680/94
M.A. No. 897/94

New Delhi this the 13th Day of September 1994

Hon'ble Shri J.P. Sharma, Member(J)

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

1. Shri S.P. Sharma
son of Shri Amar Nath
2. Shri Amrik Singh
son of Shri Sadhu Ram
3. Shri Tirloki Nath
son of Shri Ram Chander Parsad
4. Shri Laxmi Narain Choudhary
son of Shri Gulab Chaudhary

All Enquiry and Reservation
Clerks, Gr.I under CCBSP
NDCR, Connaught Place, IRCA Complex
New Delhi.

.... Applicants

(By Advocate: Shri B.S. Mainee)

Vs

Union of India through

1. The Secretary,
Railway Board
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railways,
Baroda House,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi ,

... Respondents

O R D E R

Hon'ble Member Shri J.P. Sharma, Member (J)

The applicant filed this application on 23.2.1994 making averments in para 3 that the application is within limitation but an application for condonation of delay is also filed.

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2. The applicants are presently working on the post of Enquiry and Reservation Clerks Grade I to which they were promoted in July 1991. Their grievance is that the posts of Reservation Clerk were reserved for women and they were selected and posted in 1981 and promoted as Enquiry and Reservation Clerk Grade I from January 1994. Thus, those who were subsequently appointed as Enquiry and Reservation Clerk Grade II were given promotion to that post about seven years earlier to the applicants which is discriminatory, arbitrary and unjustified.

3. The applicants have prayed for the grants of the relief that by the direction the respondents be called upon to give promotion to the post of Grade I of the Enquiry and Reservation Clerk the scale of Rs. 1400-2300 from 1.1.1984 after giving them seniority from the date of their ad hoc promotion.

4. The respondents opposed the application for condonation of delay and filed the reply only in that respect. It is stated that there is no sufficient and reasonable cause for condonation of delay in the application or in the affidavit filed alongwith the said M.A.

5. In the M.A for condonation of delay it is stated by the applicants that no seniority list was issued to the Enquiry and Reservation Clerk and, as such, they could not learn about the wrongful action of the respondents in giving seniority to the direct recruits over and above the applicants. After knowing the same the applicants filed the representations to the authorities as well as to the

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Railway Minister directly and through Member of Parliament due to which there has been a delay in filing this application.

6. All the applicants are placed in Delhi. They were appointed as Enquiry and Reservation Clerk on temporary measure by the order dated 11.3.1977. A selection was also held in 1978 in which the applicants appeared but the result of that selection was not declared in view of the fact that the posts of Enquiry and Reservation Clerk were to be filled taken in the service in the year 1981. The candidates who were taken in the service in the year 1981 were given promotion to Grade I with effect from 1.1.1984 by the order dated 9.1.1991. The applicants made representation highlighting this grievance in August 1991 and thereafter sent reminders in April 1992, March 1993 and thereafter through the Member of Parliament Shri Nani Bhattacharya. The matter was referred to the Railway Minister in March 1993. This is, therefore, evident that the applicants were making unsuccessful representations one after another and that will not give any extension to the period of limitation. In the M.A. for condonation of delay, the applicants have only referred to these representations, and have not stated any substantial or reasonable cause in not filing the application in time. The learned counsel for the applicant also referred to the law laid down in 1991(4) CSJ P220. However, the matter has been considered by the Hon'ble Supreme Court with regard to condonation of limitation as well as when the application is to be filed. In the case of S.S. Rathore Vs. State of Madhya Pradesh reported in AIR 1990 SC P 10, the Hon'ble Supreme Court already reported unsuccessful representations not provided

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by law do not enlarge the period of limitation. In the present case after making a representation to the respondents in August 1991, the applicants could have filed this application one year thereafter or taking six months more by February 1993. The present application has been filed in April 1994. Though the Tribunal has power to condone the delay in sub clause 3 of Section 21 but there should be some reasonable cause to condone the delay caused in filling the application. All the four applicants are posted in Delhi. They have gone to the Member of Parliament rather than coming to the Tribunal for redressing their grievances. Thus, it cannot be said that the applicants could not have come to the Tribunal within time.

7. The applicants have only impleaded three respondents and they want to challenge the appointment of the lady Enquiry and Reservation Clerks with effect from 1.1.1984. None of those ladies Enquiry and Reservation Clerks were made respondents in this case. The contention of the learned counsel for the applicants that when there is a matter regarding seniority and only there is a challenge to the principle then those who are likely to be affected need not be made as parties. However, here this is not the case. The applicants are claiming the antedating their date of promotion with effect from 1.1.1984 and also that their ad hoc services be counted so that they may become senior to the lady Enquiry and Reservation Clerks who were recruited in the year 1981. Those lady Enquiry and Reservation Clerks cannot be condemned without being impleaded as parties. The right

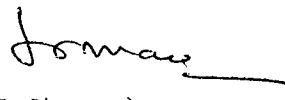
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has accrued in their favour in the berth in the seniority list with effect from 1.1.1984 while the applicants have been given promotion to Grade I from July 1991.

8. Thus, the present application is barred by limitation as well as by non joinder of necessary parties and as such, MA 897/94 is dismissed as not showing of sufficient and reasonable cause for for condonation of delay and therefore OA 680/94 is dismissed as barred by time as well as for not joining the necessary parties.

Costs on parties.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J)

Mittal