

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1062/94

New Delhi this the 10th day of March, 1995.

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

Shri B.S. Diwan,  
S/o Late Shri K.S. Diwan,  
Under Secretary (Retd.),  
R/o D-112, Anand Vihar,  
Delhi.

...Petitioner.

By Advocate Shri R.K. Kamal with Shri S.K. Gupta,

Versus

1. The Secretary,  
Railway Board, Rail Bhawan,  
New Delhi.
2. Managing Director,  
Rail India Technical & Economics Services,  
27, Barakhamba Road,  
New Delhi.

...Respondents.

By Advocate Shri Romesh Gautam.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

The applicant belongs to the Railways. He was sent on deputation to a Public Sector organisation called 'RITES'. While so, he expressed his intention to be absorbed in that organisation and, for that purpose, he made an application to the Railways with a letter of resignation dated 1.10.1985. This was accepted by the order dated 25.2.1986 wherein sanction of the President was accorded to his permanent absorption in public interest w.e.f. 1.10.1985. It would appear that in similar matters, a decision has been subsequently taken, based on certain judgements of the Tribunal, that the acceptance of the resignation can be given effect to only prospectively and not retrospectively. Accordingly,

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the applicant requested that his permanent absorption should be deemed to have taken place from 25.2.1986 when the Annexure A-2 order was issued and not from 1.10.1985 when he sent his letter of resignation. The matter was being pursued by him with the Railways, which ultimately gave a reply on 21.4.1994 (Annexure A-1) stating that he was absorbed in RITES w.e.f.

1.10.1985 on the basis of the option exercised by him which was final. Hence, the date could not be changed to 25.2.1986.

2. It is in this circumstance that this O.A. has been filed for a direction to the Railways that the applicant should be deemed to have been continued with the Railways upto 25.2.1986 when the Annexure A-2 order was issued, with all consequential benefits. This has been opposed by the Railways in the reply.

3. We have heard the learned counsel for the parties.

4. The learned counsel for the applicant stated that similar matters have already been decided in favour of the Railway employees as would be evident from the reply of the respondents themselves. In the reply to para 4.4, the respondents have stated that, in other cases, wherein the judgements have been rendered by this Tribunal, the decisions have been implemented to avoid contempt, though SLPs were also filed before the Supreme Court. It is also stated that the SLPs have since been dismissed.

5. In the circumstance, it is stated that we have only to follow the earlier decisions and give relief to the applicant.

6. The learned counsel for the respondents submits that this application is barred by limitation

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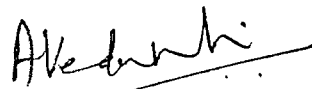
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as the cause of action arose a long time before the filing of the application. We do not agree. The respondents themselves gave a reply to the applicant on 21.4.1994 (Annexure A-1) and, therefore, the cause of action has been kept alive. The plea of limitation is baseless.

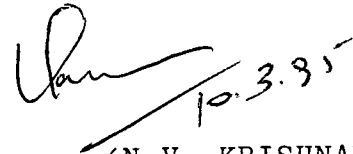
7. In so far as the merit of the case is concerned, the learned counsel for the respondents has not been able to show why we should differ from the view taken by the other Benches of this Tribunal in earlier cases.

8. In the circumstance, we allow this application, with a direction to the respondents to treat the applicant as having had his lien on the Railways till 25.2.1986, the date on which the Annexure A-2 order was passed.

In other words, he would be deemed to have been absorbed in the RITES /w.e.f. 25.2.1986. The respondents are now directed to give consequential benefits flowing from this order in the form of pensionary benefits, within a period of three months from the date of receipt of a copy of this order. No costs.



(DR. A. VEDAVALLI)  
MEMBER(J)



10.3.95

(N.V. KRISHNAN)  
VICE CHAIRMAN(A)

'SRD'