

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1685/2000

New Delhi; this the 20th day of JULY, 2001

HON'BLE MR. S.R. Adige, Vice Chairman (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

S.N. Mishra,
S/o Shri D.N. Mishra,
Canteen Manager,
Railway Canteen,
Northern Railway,
Railway Station,
Delhi,
R/o M-13, Shastri Nagar,
Near Dayabasti Railway Station,
Delhi

....Applicant

(By Advocate: Shri S.K. Sawhney)

Versus

1. Union of India
through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Chelmsford Road,
New Delhi.
3. Surat Singh,
S/o Shri Jaibir Singh,
working as Manager,
Staff Canteen,
Northern Railway,
DRM Office,
New Delhi.
4. Shri Rajinder Singh,
S/o Shri Ganga Ram,
Manager,
Staff Canteen,
Loco Shed, Diesel,
Shakurbasti,
Delhi.
5. Lakhan Singh,
S/o Shri Jaswant Singh,
Asstt. Manager,
Staff Canteen,
Loco Shed,
Northern Railway,
Delhi.

6. Raj Kumar,
 S/o Shri Baboo Ram,
 Asstt. Manager
 Staff Canteen, Loco Shed,
 Northern Railway,
 Tughlakabad,
 New Delhi.

7. Rajan Singh,
 Canteen Manager,
 Railway Canteen,
 Electric Shed,
 Northern Railway,
 Ghaziabad.

... Respondents.

(By Advocates: Mrs. Meera Chhibber for official respondents,
 Shri G.D. Bhandari for private respondents).

ORDER

S.R. Adige, VC (A):

In this OA filed on 30.8.2000 applicant impugns respondents' letter dated 17.11.98 (Annexure-3) and notice dated June, 2000 (Annexure-A4). He seeks assignment of seniority at Sl. No. 1 (A) below Sl. No. 1 Shri Pradeep Kumar and above Sl. No. 2 Shri Surat Singh in the seniority list of Canteen Managers dated 12.2.96 (Annexure-A1) with consequential benefits.

2. Heard both sides.

3. Applicant's cause of action arose with the publication of the aforesaid seniority list dated 12.2.96. As per his own averments, he aggrieved by the aforesaid seniority list, he filed a representation on 27.3.96 (Annexure-A8) with a copy to the General Secretary URMU who took up the matter in the P.N.M. under the I.D. Act. If applicant did not receive any reply to his representation dated 27.3.96, he should have approached the Tribunal within the period of limitation prescribed under Section 21 A.T. Act, which he did not do. The

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avement that URMU had taken up the matter in the PNM under the ID Act does not extend the period of limitation under Section 21 AT Act which is self contained. The OA is therefore squarely hit by limitation under section 21 AT Act, and there is not even a prayer made for condonation of delay.

4. Coming to the merits of applicant's claim, we notice that he seeks interpolation in the seniority list dated 12.2.96 of Canteen Managers between Sl. No. 1 Shri Pradeep Kumar and Sl. No. 2 Shri Surat Singh. It is not denied that by respondents' notice dated 28.7.88 (Annexure- PR4) applicant was put to officiate as Canteen Manager of the Canteen in which he was working on a adhoc basis through local arrangement, and was subsequently regularised as such w.e.f. 19.7.96 vide respondents' letter dated 18.7.96.

5. Applicant seeks the counting of his adhoc service as Canteen Manager w.e.f. 28.7.88 towards seniority and Shri Sawhney relied upon conclusion 'B' of the Direct Recruits' case (1990)2 SCC 715 in support of applicant's claims, but conclusion 'B' would be applicable only in a situation where there was a procedural irregularity in making the appointment according to rules, which was subsequently rectified as clear from Aghore Nath Deys case 1993(3)SCC 371. It is no denied that as per relevant RRs, the post of Canteen Manager is a selection post (Annexure-AAI). Thus Conclusion 'B' (supra) may have been applicable had the selection procedure broadly been followed while making applicant's appointment as Canteen Manager, but there was irregularity committed while following that procedure, which was later rectified. In the present case, there is no averment made by applicant in the OA that the

selection procedure was followed at the time of his appointment as Canteen Manager on adhoc basis through local arrangement vide notice dated 28.7.88. Indeed the notice dated 28.7.88 read with official respondents' reply to the OA makes it clear that applicant was put to officiate as Manager of Delhi Main Canteen where he was working, by local arrangement on adhoc basis without following any selection procedure in which the claims of other eligible candidates working in other canteens for appointment as Canteen Manager were also considered.

6. Under the circumstance applicant's claim is not covered by Conclusion 'B' of the Direct Recruits' case (supra) and the ruling in Ramesh Gupta Vs. Secretary, DPAR & Ors. 1986 (1) ATJ 91 does not advance his claim.

7. Other grounds to challenge the OA have also been raised by respondents, both private and official, but the foregoing is sufficient to establish that the OA warrants no interference and it is therefore dismissed. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

S. Radige
(S. R. RADIGE)
VICE CHAIRMAN (A)

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