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Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2263/2000

This the 20th day of May, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri V.K. Majotra, Member (A)

Akhileshwar Prasad
S/o Shri Bikham Ram,
R/o 160/11, Delhi Kishanganj, Railway,
Colony, Delhi.

(By Advocate: Shri Yogesh Sharma) -Applicant

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
Near New Delhi Railway Station, New Delhi.
3. The Chief Mechanical Engineer,
Diesel Shed, Northern Railway,
Shakurbasti, Delhi.
4. Shri Shyam Sunder Singh,
Working as MCM, at Northern Railway,
Diesel Shed, Shakurbasti, Delhi.

(By Advocate: Shri B.K. Aggarwal) -Respondents

ORDER (Oral)

Hon'ble Shri V.K. Majotra, Member (A)

The applicant has challenged the seniority list of Technical grade-I of the year 1999 (Annexure A-1) in which the applicant has been shown below respondent No.4 and because of wrong fixation of seniority, the applicant was not considered for promotion to the post of MCM in preference to his juniors.

2. Learned counsel of the applicant Shri Yogesh Sharma has stated that whereas he was promoted as Technical Grade-II on 21.11.79 i.e. earlier than respondent No.4 namely, Shri Shyam Sunder Singh and was promoted to

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Technical Grade.I along with him on 1.1.1984, the applicant was shown junior to him in 1987 and ultimately in 1999. The learned counsel relied on *Kuldip Chand Vs. Union of India & Ors.* 1995 (2) SCSLJ 396, contending that legitimate right cannot be denied despite delayed challenge to seniority.

3.. On the other hand the learned counsel of the respondents Shri B.K. Aggarwal, learned counsel for respondents stated that applicant had been shown junior than respondents in 1981 seniority list (Annexure R-3).

4.. We observe from Annexure R-3 that in 1987 seniority list, applicant's name existed below the respondent but he never represented against wrong assignment of seniority and as such his claim was untenable.

5.. In *B.S. Bajwa and another Vs. State of Punjab and others* (1998) 2 SCC 523, it was held by three judge Bench as follows:-

"It is well settled that in service matters the question of seniority should not be reopened in such situations after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under Article 226 and to reject the writ petition".

6.. We rely on the ratio of *B.S. Bajwa (supra)* and find that the dispute about seniority has been raised by

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the applicant against the respondents after an in-ordinate delay, which cannot be entertained now.

7. Having regard to the reasons recorded above, we do not find any merit in the OA which is dismissed.

V.K. Majotra

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

cc..