

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.890/89

DATE OF DECISION: 24.12.1991.

SHRI R.M. SHARMA

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

CORAM:

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. MAHARAJ DIN, MEMBER (J)

FOR THE APPLICANT IN PERSON

FOR THE RESPONDENTS NONE

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

This Original Application was filed by Shri R.M. Sharma, Assistant Mechanical Engineer (AME) South Eastern Railway under Section 19 of the Administrative Tribunals Act, 1985. The grievance agitated in the Original Application is that in the selection held in 1983 for the post of AME Group 'B' against 75% promotion vacancies he was not considered by the respondents. He was on the other hand advised to appear in the selection to be held for the remaining 25% vacancies by Limited Departmental Competitive Examination (LDCE). The applicant qualified in the LDCE and was regularly appointed as AME. Before this he had been promoted on adhoc basis as AME in 1980. His grievance is that by not considering him for promotion against the promotee quota viz. 75% vacancies he was relegated to a far junior position in the seniority list, as he had to seek regularisation only by qualifying in the LDCE.

2. When the case came up for hearing first on 17.8.1989 the respondents were represented by Shri S.N. Sikka, Advocate who sought 4 weeks' time to file a reply; the learned counsel again asked for further time of two weeks for filing the counter on 15.1.1990. On 26.2.1990 the learned counsel for the respondents sought further six weeks' time for filing the counter, as the matter related to

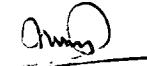
South Eastern Railway, Calcutta. However, the counter-affidavit was not filed even on expiry of the said period. The last opportunity granted to the respondents on 10.5.1990 to file counter within six weeks, failing which the case will be decided on the basis of the records, too failed to evoke any response. On the subsequent dates when the case came up none appeared for the respondents. Shri Sikka appeared on 5.12.1991 when he prayed for short adjournment to enable him to argue the matter. On 23.12.1991 and today when the applicant concluded his arguments none represented the respondents.

In the above circumstances, we have considered the submissions made by the applicant and the material placed by him before us and decided to proceed ex-parte. We are of the view that the matter is a very stale one. The cause of action for the applicant had arisen in 1983, yet he did not agitate the matter in the proper forum and contented himself by making representations to the respondents. On a query from us as to how he would get over the provisions made in Sections 20 and 21 of the Administrative Tribunals Act, 1985 regarding limitation, he referred us to his application for seeking condonation of delay. In the said application dated 16.4.1989 he had submitted that the anomaly in his case arose in 1977 and since then he had been making representations, the last one being dated 6.12.1985 followed by a reminder dated 17.4.1986. There was, however, no response from the respondents and eventually he filed this O.A. in April, 1989, about 6 months prior to his retirement. In **S.S. Rathore v. State of M.P.** AIR 1990 (1) 10 the Hon'ble Supreme Court has laid down that repeated representations do not extend the limitation.

(Q)

10A

In this view of the matter, we are not inclined to go into the merits. We consider that the application is barred by limitation and order accordingly. The same is dismissed with no order as to costs.


(MAHRAJ DIN)
MEMBER (J)
24.12.91.


(I.K. RASGOTRA)
MEMBER (A)
24.12.91.