

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.2047 of 1988.

Date of decision: 31<sup>st</sup> JAN. 92

Shri Karan Singh

...Applicant

V/s

Union of India

...Respondent

CORAM:

THE HON'BLE MR. T.S.OBEROI, MEMBER (J).

THE HON'BLE MR. P.C.JAIN, MEMBER (A).

Shri B.S.Mainee

...Counsel for the applicant.

Shri O.N.Moolri

...Counsel for the respondent.

JUDGEMENT

( DELIVERED BY HON'BLE MR. T.S.OBEROI, MEMBER (J)

.....

In this OA, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is working as Head Clerk (Conference), Rates Branch, Northern Railway, Bareda House, New Delhi, has prayed for assigning to him correct and appropriate seniority, in accordance with the instructions of 1954, together with preforma fixation of his pay and arrears consequent thereto from the date his juniors had been promoted.

2. The facts giving rise to the filing of the present OA, briefly stated, are that the applicant had joined the North <sup>-Eastern</sup> Railway, on 28.8.56, and later was transferred to Northern Railway, as a result of mutual exchange with one Shri Aditya Parsad, on 26.4.1958. His service from 28.8.56 to 26.4.1958 was, however, not reckoned towards his seniority and he was ranked junior to all the temporary and permanent staff appointed prior to the date of resumption of duty by the applicant

*Seen*

in the Northern Railway, in accordance with instructions of 1955, issued by the Railway Board under their no.E.55 SR 6/3 dated 19.5.1955 to General Managers, of all Railways. The applicant, however, claims benefit of his earlier service, for the period mentioned above, on the basis of instructions of 1954, being a case of transfer on mutual exchange, and not on the basis of his own request, as envisaged in the instructions of 1955. Having failed to get the desired relief, on a representation to that effect, as per annexure A-I (page 10 of the paper-book), the present OA was filed in this Tribunal.

3. In the counter filed by the respondents, the applicant's case was opposed, being grossly time-barred, besides, on the ground that the applicant had joined duty with transferee department on the condition that he will rank junior to all temporary and permanent employees of their office, in accordance with the instructions of 1955, referred to above. It was also averred that the instructions of 1954, having been issued locally by the General Manager concerned, have no application, in the presence of those issued by the Railway Board in 1955.

4. Arguments were heard from both the sides.

5. The learned counsel for the applicant referred to a judgement, a copy of which has been filed as annexure A-II, in the case of UNION OF INDIA V. SHRI UDAIBIR SINGH, decided by learned Additional District Judge, Delhi, in which similar issues were involved, and in which the relief prayed for therein, was granted, holding it as a case of transfer on mutual exchange, in

*Ben*

which instructions of 1954 were held as applicable. It was, accordingly, urged that the respondents ought to have given the same relief, to the applicant as well, of their own, without the necessity of the applicant having come before this Tribunal, as held by this Tribunal in the case of A.K.KHANNA AND OTHERS V. U.O.I. (ATR 1988(2) p.158. The applicant also demanded parity of treatment as provided in Articles 14 and 16 of the Constitution of India.

6. We have also heard the learned counsel for the respondents, who pleaded that the judgement relied upon by the learned counsel for the applicant in Udaibir's case was in that particular case, and not a judgement in rem. The learned counsel for the respondents also pleaded that even that judgement was passed as far back as on 7-1-80, whereas the applicant has filed the present OA on 21st of October, 1988, and thus, it is not only time-barred but even not within the jurisdiction of this Tribunal, under the provisions contained in Section 21(2)(a) of the Administrative Tribunals Act, 1985, the cause of action having arisen, earlier than 1.11.82, i.e., 3 years prior to the coming into force of the above Act.

7. The learned counsel for the applicant, in order to meet the limitation aspect, referred to the case of B.KUMAR V. U.O.I. ( ATR 1988(1) CAT p.1 ), pleading that as the respondents had chosen to consider the case of the applicant, the limitation will be reckoned from the date of their rejection of the applicant's case, as per annexure A-1, which is dated 13-11-87.

8. We have given our careful consideration to the rival contentions, as briefly discussed above. We have

*Seen*

8-

also carefully perused the contentions raised by the parties in their respective pleadings, together with documents and citations referred to, by them. As is evident, the cause of action, even according to the applicant, arose to him on decision of the case in judgement, annexure A-II (U.O.I. V. UDAIBIR SINGH), after which he represented his case to the department. It has also been held that repeated reminders do not extend the limitation (S.S.RATHORE V. STATE OF MADHYA PRADESH, AIR 1990 SC p.10) and (G.S.MANN V. HIGH COURT OF PUNJAB AND HARYANA, 1980(4) SCC p.266). Further, in P.S.SADASIVA SWAMY V. STATE OF TAMIL NADU, AIR 1974 SC p.2271, it was held that delayed and stale matters should not be entertained so as to unsettle the settled matters. In the present case, matter relating to applicant's transfer pertains to the year 1956-58, and obviously, any order, as prayed for, if granted would result in many administrative difficulties, besides some adverse effects to many others, who have not been made party in the case.

9. In result, we are not inclined to interfere in the matter, as prayed for by the applicant, on the ground of jurisdiction alone, under the provisions contained in Section 21(2)(a) of the Administrative Tribunals Act, 1985. The OA is, accordingly, dismissed with no order as to costs.

and, therefore, sent several reminders to them.

/PKK/

*P.C. Jain*  
(P.C.JAIN)  
MEMBER(A)

*T.S. Oberoi* 31.1.92  
(T.S.OBEROI)  
MEMBER(J)