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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1048 of 1988 Date of Decision: 9.10.93

Surender Kumar JaitleyApplicant.

Versus

Union of India & othersRespondents.

CORAM:

Hon'ble Mr.J.P.Sharma, Member(J).

Hon'ble Mr.S.R.Adige, Member(A)

For the applicant: Shri Umesh Mishra, counsel.

For the respondents: None.

J U D G M E N T

(By Hon'ble Mr.S.R.Adige, Member(A).)

In this application ,Shri Surender Kumar Jaitley , Head Clerk has prayed for refixation of her seniority to the effect that the applicant was promoted as Clerk from 1.10.72 and was promoted as Senior Clerk from 1.10.80, with consequential benefits. His case is that he joined service in the Northern Railway as a permanent Gangman and was promoted as Store Issuer on 16.5.69 and was confirmed on 1.10.72. On 1.10.72 itself he was promoted as Clerk and was promoted as Senior Clerk w.e.f. 1.10.80. He contends that the next higher promotion post is that of Head Clerk which is made on seniority basis from the Clerk. For this purpose, the applicant was within the zone of consideration as per seniority list issued on 1.3.85 but he was ignored and the respondents no.3 and 4, who were junior to him, were promoted vide communication dated 7.1.87. It is stated that the following observations were made in his case:-

"Sarvshri S.K.Khanna and Surender Kumar Jaitley, Senior Clerk grade Rs.1200-2040/- who were on deputation, have not been considered for promotion as Head Clerk

grade Rs.1400-2300/- due to their seniority dispute".

2. The applicant further contends that he is presently on deputation with the Western Railway but has lien in the Northern Railway and has a right to repatriation and has also a right for being considered to the higher post on the basis of seniority. He states that he represented on 7.3.87 demanding that he should be promoted as Head Clerk but no action had taken. He further states that when he was promoted on 1.10.72 as Clerk, no suitability test was taken but later on vide Communication dated 18.6.83, it was declared that after necessary test, his services had been regularised w.e.f. 1.10.72. Thereupon, after qualifying a further suitability test, he was given the relevant grade w.e.f. 1.10.80 which entitled him to the post of Head Clerk. He is aggrieved by the Communication dated 4.3.87 by which his date of ~~his~~ promotion as Clerk has been shown as 16.3.83 and his date of promotion as Senior Clerk has been shown as 12.2.86, and has prayed that the seniority list be corrected to the effect that he was promoted as Clerk on 1.10.72 and was promoted as Senior Clerk on 1.10.80.

3. The respondents have challenged this application in their counter affidavit on ground of limitation as well as on merit. As regards the merit of the case that the applicant was appointed as a Gangman and was promoted as Store Issuer temporarily and thereafter transferred to the Office of the Chief Engineer(Construction) where he was promoted as Clerk but he continued his lien in Ferozpur Division. The process for selection of the post of Clerk took place in 1983 and he qualified

the same and was regularly promoted as Clerk w.e.f. 16.6.83. He was wrongly shown promoted as Clerk w.e.f. 1.10.72 but was not regularised as such after the error was detected and his date of promotion w.e.f. 1.10.72 was accordingly revised to 16.6.83 vide order dated 1.7.87 and on the basis of that seniority, he was further promoted as Senior Clerk w.e.f. 12.2.86 after qualifying the suitability test. It is stated that the next higher grade post from Senior Clerk is that of Head Clerk and the applicant's name did stand at serial No.5 in the seniority list dated 1.8.85 but after his seniority was revised vide order dated May, 1987, the applicant could not claim that for the purpose of promotion as Head Clerk, his seniority should be counted w.e.f. 1.10.72. After revision of the seniority, the respondents no.3 and 4 became senior to him and the applicant was not due for promotion as Head Clerk as the persons senior to him have not been promoted as yet. It has been stated that the seniority list circulated on 1.8.85 was provisional and on receiving representation from the staff, the seniority list was revised and the applicant was shown promoted as Senior Clerk w.e.f. 12.2.86 after qualifying the suitability test.

4. We have heard Shri Umesh Mishra, learned counsel for the applicant. None appeared for the respondents. We have perused the materials on record.

5. At the outset we note that the relief prayed for is with effect from 1.10.72, it is

well settled that this Tribunal has no jurisdiction to entertain the applications where the ^{my}case of action arises prior to three years from the date of inception of this Tribunal, that is, prior to 1.11.82 . Hence, the Tribunal has no jurisdiction to entertain this application, and on this short ground alone this application is dismissed. No costs.

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(S.R.ADIGE)
MEMBER(A)

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(J.P.SHARMA)
MEMBER(J) 8/10/92

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