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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2748/90

New Delhi this the 29th day of May, 1995.

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

1. V.K. Mishra,
S/o Late Shri O.P. Misra.

2. Brij Mohan Jha,
S/o Shri Raghubir Saran Jha,

(Both Senior Clerks working under
GFO/DSL-Loco-foreman, Northern Rly,
Tughlakabad, New Delhi).

..Applicants.

By Advocate Shri B.S. Mainee (though none appeared).

Versus

1. Union of India through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
New Delhi.

By Advocate Shri Romesh Gautam (though none appeared).

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan.

The applicants are aggrieved by the Annexure A-I order of the Railways dated 8.3.1989 by which promotions granted to the applicants by the earlier letter dated 6.10.1988 have been cancelled. The

applicants filed this O.A. on 29.10.1990. The O.A. was admitted on 1.1.1991 leaving the question of limitation open to be decided at the appropriate stage.

2. The respondents have filed their reply. They contest the claims of the applicants. A preliminary objection has been taken that the O.A is barred by limitation.

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3. In the rejoinder, the applicants have stated that as the application has been admitted, the issue of limitation cannot be raised. No application for condonation of delay has been filed.

4. As the impugned order has been issued on 8.3.1989, the O.A. should have been filed on or before 8.3.1990. As it has been filed only on 29.10.1990, the bar of limitation is self-^{lv}~~confident~~. This has been obliquely referred to in the order of 1.1.1991, thus warning the applicant about the issue of limitation. Nothing was done by them.

5. In para 4.27 of the O.A., the applicants state that a representation dated 17.3.1989 was sent to the respondents vide Annexure A-17 and no reply has been received. In reply to this sub-para, the respondents have denied this averment and also denied that any representation was made. The applicants have merely reiterated their averments in the O.A. in the rejoinder and did not produce any proof about the sending of the representation at Annexure A-17.

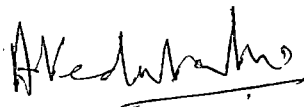
5. We notice that the applicants do not allege that the representation was sent by registered post. There is no evidence to that effect in Annexure A-17.

Therefore, there can be no presumption. Further, though Annexure A-17 seems to be signed on 17.3.1989, yet in the copy endorsed to the General Manager reference to a later letter dated 12.8.1989 of the DRM has been made. Prima facie, this representation could not have ^{been} made on 17.3.1989.

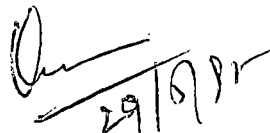
6. No reasons have been given for the delay. No miscellaneous application has been filed for condonation despite the above circumstances.

7. The applicants contend in the rejoinder that as O.A. has been admitted the respondents cannot take the plea of limitation. This is patently incorrect because the O.A. was admitted leaving the question of limitation open.

8. In the circumstances, the objection based on limitation is sustained. The O.A. is dismissed as being barred by limitation. Therefore, we do not consider any other issue on merits.



(DR. A. VEAVALLI)
MEMBER(J)



(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'