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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

O.A. No. 1516/91

New Delhi: this 3rd day of ~~August~~^{Sept}, 1996.

HON'BLE MR. S. R. ADIGE, MEMBER (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J).

Shri S. P. Srivasta,
S/o Shri B. D. Srivastava,
R/o 116, Gudri Bazar,
Jhansi (UP)

.....Applicant.

By Advocate: Shri Sarvesh Bisaria.

Versus

1. Union of India through
Secretary,
Ministry of Railway,
Railway Bhawan,
New Delhi.

2. General Manager,
Central Railway,
V.T. Bombay,

3. Divisional Railway Manager,
Central Railway,
Jhansi.

..... Respondents.

By Advocate: Shri P. S. Mahendru.

JUDGMENT

BY HON'BLE MR. S. R. ADIGE, MEMBER (A).

Heard.

2. Admittedly, by respondents' letter dated 17.6.76 (Annexure-I), the applicant who was working as a Clerk in Operational Branch of Jhansi Division, was transferred temporarily to the Personnel Branch in Jhansi Division to relieve staff who were to proceed for training. No doubt, this transfer was in the public interest, but it was of a purely temporary nature, and it follows that the applicant was to return to his parent Branch when the regular incumbents returned from their training. There was no mention in this letter of any change of

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cadre. This arrangement however, continued, and the applicant has not denied that on 4.9.79 he submitted an application for change of cadre from Operational Branch to Personnel Branch in Jhansi Division, with a declaration that he was willing to accept bottom seniority in Personnel Branch. The applicant has also not denied that on 4.1.80 he was declared as no more required in Personnel Branch and was to return to the Operational Branch, upon which he sought an interview with the DRM, and after reconsideration of his case at H.Q. level he was eventually allowed to count his seniority in Personnel Branch w.e.f. 15.6.81.

3. The applicant has cited the case of one Hardyal Singh in support of his prayer for grant of seniority in Personnel Branch w.e.f. 17.6.76 claiming that Hardyal Singh was given seniority with effect from the date of his transfer in 1978, but respondents aver that the two cases are dissimilar because Hardyal Singh's transfer to Personnel Branch in 1978 was permanent, while applicant's transfer in 1976 was purely temporary. No materials have been produced by the applicant to refute this averment of respondents and to establish that his case is on all fours with that of Hardyal Singh.

4. As the applicant's initial transfer to Personnel Branch on 17.6.76 was purely temporary and he has not denied that he himself in his petition dated 4.9.79 seeking change of cadre from

Operational Branch to Personnel Branch was willing to accept bottom seniority in Personnel Branch he cannot now claim seniority in that Branch from 17.6.76 and the respondents have committed no legal infirmity in allowing him change of cadre with effect from the date of actual issue of orders.

5. Apart from the application lacking merit, we also note that it is barred by limitation and lack of jurisdiction in as much as the cause of action which arose on 17.6.76 is much before the period of three years prior to the inception of the Tribunal and the OA is therefore hit by Section 21 (2) (a) AT Act, and repeated representations do not extend the period of limitation.

6. Under the circumstance, this OA warrants no interference. It fails and is dismissed. No costs.

A Vedavalli

(DR.A. VEDAVALLI)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A).

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