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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.2188/91

New Delhi this the 16th Day of January, 1996.

Hon'ble Sh. B.K. Singh, Member(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Chander Prakash Gupta,
S/o Sh. Ram Kumar,
R/o 139, Turabnagar, Ghaziabad. Applicant

(through Sh. M.L. Sharma, advocate)

versus

1. Union of India
through General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divl. Railway Manager,
Northern Railway,
Moradabad.
3. Chief Administrative Officer
(Construction),
Northern Railways,
Kashmere Gate,
Delhi.

Respondents

(through Sh. P.S. Mahendru, advocate)

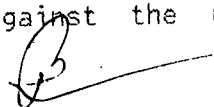
ORDER(ORAL)

delivered by Hon'ble Sh. B.K. Singh, Member(A)

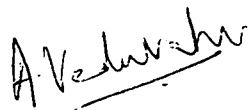
The admitted facts are that the applicant has claimed the relief in the O.A. of implementation of the directions given in CPO/C letter No.940E/13-XXXV/Construction Kashmere Gate dated 10.12.1990 by refixing his seniority with effect from 3.3.1980 and giving him the ensuing benefits including the benefit of 4th Pay Commission by implementing the revised pay scale w.e.f. 1.1.1986. It is admitted by both the parties that the applicant has since been placed at Sl.No. 1 and S/Sh. D.R. Arora and H.S. Virmani have been placed below him. The claim regarding refixing seniority and placing the applicant at Sl.No.1 has since been granted. The question which remains to be decided is

grant of the same with effect

effect from 3.3.1980, the date on which his two juniors, namely, S/Sh. D.R. Arora and H.S. Virmani were promoted. It is also admitted by both the parties that he was granted proforma promotion by D.R.M. Moradabad w.e.f. 3.3.1980 the date on which his two juniors were promoted. This order is contained in the letter No. I/3/D'man/81-82 dated 22.12.1982. Though the letter was issued on 22.12.82 but he was granted the benefit of proforma promotion w.e.f. 3.3.1980. It is also an admitted fact that he was senior most person when he was declared surplus and sent to the Construction Division based in Kashmere Gate Delhi. The competent authority in the Kashmere Gate Delhi Construction Division granted him promotion in the scale of Rs. 550-750/- w.e.f. 7.10.1980 whereas his juniors who remained with D.R.M. Moradabad were given promotion w.e.f. 3.3.1980. Subsequently also it is stated that the juniors were given the pay scale of Rs. 750-900/- w.e.f. 9.1.1986 and the applicant was allowed this pay scale w.e.f. 19.11.1986. During the course of arguments, the learned counsel for the applicant argued that he is entitled to claim this benefit from 3.3.80 and also from 9.1.86 in the two pay scales of Rs.550-750/- and also in Rs.700-900/- from the date his juniors were so promoted. The payment of arrears is certainly hit by limitation. The Hon'ble Supreme Court in case of M.R. Gupta Vs. U.O.I. & Ors. reported in ATJ 1995(2) 567 have remitted the case back to the Tribunal to reconsider the matter regarding correct computation of salary but in the same case they have said that the law of limitation will operate against the recovery of arrears. In case of



Secretary to Govt. of India & Ors. Vs. Sivaram Mahadu Gaikwad (1995 ATC 635), the Hon'ble Supreme Court have set aside the judgement of the Tribunal on the ground that no consequential benefits of back wages can be granted to a person and even re-instatement cannot be ordered when a matter is hit by limitation under Section 21 of the Administrative Tribunals Act, 1985. In that particular case, no condonation application had been filed and the Larger Bench of the Hon'ble Supreme Court comprising of Hon'ble Mr. Justice A.M. Ahmadi, Hon'ble Mr. Justice M.M. Punchhi and Hon'ble Mr. Justice N.P. Singh have clearly laid down the law that the power of the Tribunal is limited to Section 21 and the Tribunal is required to apply its mind on exemption only when a miscellaneous application for condonation of delay is filed. In the instant case no misc. application for condonation of delay has been filed and as such the relief prayed for payment of arrears cannot be granted. The relief of granting him the seniority at Sl.No.1 has already been granted by the respondents themselves. Therefore, the application to that extent has become infructuous. The application, therefore, fails and is dismissed as one hit by limitation and also as one having become infructuous but without any order as to costs.



(Dr. A. Vedavalli)
Member(J)

/vv/



(B.K. Singh)
Member(A)