

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO.396/91

Date of Decision : -

Shri Goverdhan Singh ... Applicant
Vs.
Union of India & Ors. ... Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)
Hon'ble Shri S.R. Adige, Member (A)

For the Applicant ... Shri H.P. Chakravorty
For the Respondents ... Shri H.K. Gangwani

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant is working as CNW Fitter Grade-I at CWS, Agra Cantt. He is aggrieved by not being sent for training along with his batch mates or his subsequent batches for filling up the vacancy of TXR from CNW Mistries/HSK-I and II Artisan staff against 20% quota.

2. The applicant has claimed the following reliefs :-

- (i) That the respondents be commanded to allow the humble petitioner to get the requisite training of Apprentice Train Examiner and consequently releasing the posting as Train Examiner with full protection of seniority and other promotional & fringe benefits.
- (ii) That any such relief to which the humble petitioner be found to be entitled as per facts and circumstances of the case, also be granted to him besides cost and expenses of the petition.

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B. By the order dt.14.12.1979 issued by the Central Railway, DRM Office, Jhansi, certain highly skilled Grade-I and II CNW artisan staff were empanelled and the name of the applicant stands at Serial No.111 (Annexure R1). This order also shows that the staff empanelled was to appear for further written examination at PTS, Jhansi on 24.12.1979 in terms of the letter No.B.30/CNW/Artisan/TXR/Jhansi/PT-1 dated 3.12.1970. The applicant inspite of this arrangement could not report to PTS Jhansi in view of the fact that the applicant was deputed to work at the territorial army and was relieved by the Officer Commanding on 23.12.1979 with instructions to report for duty on 26.11.1979. The case of the applicant is that during his serving in the territorial army, he could not reach Principal System Technical School, Jhansi. The applicant, as alleged, made representation on 23.8.1980 (Annexure A2). The applicant, the main contention is that he has made the representation on 23.8.1980, so he must have approached the competent court for the redressal of his grievance, but he did not do so. The learned counsel for the respondents has taken the objection that the present application is hopelessly barred by limitation and the applicant cannot get any relief on the panel prepared on 14.12.1979 and further the applicant could not pass the written examination which was taken at PTS, Jhansi on 24.12.1979. It is also to be noted that the applicant has made another representation

dt. 30.7.1982 (Annexure A3) followed by other representations dt. 22.7.1983 and 22.6.1984 (Annexures A4 and A5). The applicant also did not come forward for assailing his grievance at that time. The case of the respondents is that preliminary written test and viva-voce test were conducted only to screen the candidates for being subjected to final written test to be conducted by the Principal PTS, Jhansi to assess their suitability for the post of TXR and the candidates found suitable in the written test conducted by the Principal PTS, Jhansi, Central Railway were only imparted training ^{by} ~~at~~ the Principal of the said institution. The respondents also replied to the representation dt. 22.6.1984 by the letter dt. 16.7.1984 (Annexure R2). Even then the applicant did not assail that letter at the proper time. The applicant, however, took the selection to the post of TXR in 1986, but he failed in the written test, held in February, 1986. The respondents have filed the copies of the letters dt. 12.12.1986 and 31.12.1986 (Annexures R3 and R4) to show that the applicant could not qualify in the written test. Even then the applicant did not approach the Tribunal and the present application has been filed on 4.9.1990, refiled on 21.12.1990 and again refiled on 14.12.1990. Under Section 21 of the Administrative Tribunals Act, 1985, it is laid down that the Tribunal shall not admit an application :-

(a) in case where a final order has been made in connection with the grievance unless the application is made within one year from the date on which such final order has been made.

The contention of the learned counsel for the respondents,

that the application is barred by limitation, has therefore, force.

4. The applicant has moved MP 541/91 for condonation of delay. In this MP for condonation of delay, the applicant has taken 11 grounds to show that there was substantial and reasonable cause for not coming to the Tribunal in time. However, in none of the grounds taken by the applicant, he has not given any reason as to why he could not come to the Court at the relevant time. He has only referred to the representations he has made time and again i.e. 1980, 1982, 1983, 1984, 1986, 1987 and 1990 (Annexure A1 to A8). But merely making repeated representations will not by itself make a sufficient and reasonable ground for condonation of delay. The Hon'ble Supreme Court in the case of S.S. Rathore Vs. State of H.P., reported in AIR 1990 SC p-10 held that repeated representations would not add to the period of limitation provided for in Section 21 of the Administrative Tribunals Act, 1985. Though the applicant was serving in the territorial army from November, 1979 to 23.12.1979 and after being relieved, he should have made a representation for undergoing the written test at PTS, Jhansi. The applicant has not given any reason as to why he did not approach the proper authorities for his written examination. The first representation he has made was only in August, 1980. He has already joined the parent department on being relieved from the territorial army. Thus any of these 11 grounds taken by the applicant, most of which are repetition and only state facts, do not

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justify the condonation of delay in preferring this application after such a long time.

5. Further the matter relate's to the year 1979 and under Section 21(2), it is laid down that the grievance in respect of which an application is made had arisen by any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authorities of the Tribunal become exercisable under this Act in respect of the matter to which such orders relate and no proceeding for redressal of such grievance has commenced before the said date before any High Court, the application is entertained by the Tribunal if it is made within the period, referred to above. The Tribunal in such matters has no jurisdiction as the cause of action had arisen to the applicant in the year 1979 and the Tribunal cannot entertain a matter in which the cause of action has arisen before 11.11.1982. The vacancies of Train Examiner in the grade of 3.425/703/15 are meant for persons who have completed 3 years in class III/Group 'C' under their prescribed quota and the applicant of course applied in response to the notification and was also considered. After amalgamation, the applicant has to undergo another test and the applicant was deprived of taking that test as is also clear from the panel dt.14.12.1979 (Annexure A). If

the applicant was prevented from taking that examination by virtue of his posting in the territorial army from November, 1979 to 23.12.1979, then the applicant should not have taken the subsequent examination which was held by the respondent in February, 1986. When once the applicant has failed in the written test, then he cannot at the same time take shelter of the earlier panel of 1979 which was in fact provisional and was subject to passing the written test to be taken by Principal, PSTS, Jhansi. Had the applicant passed the February, 1986 examination of Train Examiner, then the applicant could have been considered on the case of getting the seniority of the batch. But since the applicant has failed, so now the applicant should have no grudge only on account of having been deprived of taking the examination in 1979 by the Principal PSTS, Jhansi.

6. In view of the above facts and circumstances, the present application is hopelessly barred by limitation and also beyond the jurisdiction of the Tribunal and is dismissed leaving the parties to bear their own costs.

AKS

Arif Ali
(S.R. ADJGE)
MEMBER (A)

D.P.
(J.P. SHARMA)
MEMBER (J)