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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1995/2004

New Delhi this the 4th day of September, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Bishan Singh,
S/o late Sh. Bachchoo Singh,
R/o Village Govt. Unnayan Basti
(Adarsh Colony), Muradabad,
UP.

.... Applicant

(through Sh. U. Srivastava, Advocate)

Versus

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

2. The Divl. Railway Manager,
Northern Railway,
Muradabad,
UP.

.... Respondents

(through Sh. R.L. Dhawan, Advocate)

Order (Oral)

Heard the learned counsel for the parties.

2. Though delay deprives justice and one who sleeps over his right loses his remedy as well, yet this would not apply in case of a person seeking his pensionary benefits, which is a recurring cause of action and a right of a government servant. Leaving apart his claim and right, firstly it is to be ascertained whether he was a government servant and is entitled to pensionary benefits.

3. Applicant earlier filed OA-3122/2003, which was disposed of on 2.1.2004 with a direction to the respondents to pass a detailed and

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speaking order. Accordingly, a Welfare Inspector was deputed who, after meticulously going into all the documents, submitted his report which has been certified by the DRM, Moradabad Division, Northern Railway, Moradabad, who rejected the claim of the applicant vide impugned order dated 28.5.2004 on the ground that in support of his claim, the applicant failed to submit documentary proof.

4. Learned counsel of the applicant along with the OA annexed an affidavit issued by the persons under whom he had functioned and this has been certified by the service particular certificates.

5. Learned counsel of the applicant while placing reliance at Serial No. 1666 of Circular dated 16.7.1962 which deals with preservation of old records, my attention has been drawn to Item No.37 that staff register which contains names of all the employees and their working is to be maintained permanently, this is the only document by which fact of applicant being a railway servant could be ascertained.

6. On the other hand, respondents' counsel vehemently opposed the contentions and stated that in the light of decision of the Apex Court in **Ratam Chandra Sammanta & Ors. Vs. U.O.I. & Ors.** (JT 1993(3)SC 418), the O.A. is barred by delay and latches. On merit, it is stated that since the directions earlier passed by the Tribunal (supra) had been duly complied with, on meticulous examination and verification of the records by the Welfare Inspector, the claim of the applicant has been found to be not genuine for grant of benefits as he has not produced all the documents despite various reminders to substantiate his working in Moradabad Division.

7. On careful consideration of the rival contentions of the parties, the ground of limitation cannot be countenanced and is over-ruled. As

regards reservation, staff register is the only document, which is maintained permanently and also verifies the working of a railway servant in the Railways at the relevant point of time when he was deputed in the respective zones. Though Welfare Inspector had meticulously gone into the documents, I do not find a specific averment with regard to verification from the staff register which is the only document to ascertain the claim now made by the applicant. 24

8. It is clear that justice is not only done but the same should manifestly appear to be done. Administrative authorities being a model employer should have taken their action to make it apparent that employee should not be left without faith on the ground that necessary efforts have not been made by the respondents to examine the claim as this not only brings disharmony but also dissatisfaction to the concerned employee. In all fairness, staff register is one of the documents to ascertain the working of a government servant.

9. In view of the facts and circumstances of the case, this OA stands disposed of with a direction to the respondents to re-examine the claim of the applicant on verification of his working period from the staff register. If the name of the applicant is not found incorporated that would be the end of the matter. However, in case he is found to have worked in the Moradabad Division in accordance with the register, his pensionary benefits would be processed further and necessary orders should be passed within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

Avv/