

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.2710 of 1992

New Delhi, this 16th day of December, 1997.

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER(A)

Yash Kumar
S/o Late Shri Prabhu Das
Enquiry-cum-Reservation Clerk
Office of RTA Cell (Reservation)
Room No.11, Commercial Branch
Northern Railway, Baroda House
New Delhi

... Applicant

By Advocate: Shri S. K. Sawhney

versus

1. Union of India, through
General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
DRMS office, State Entry Road
New Delhi.
3. The Senior Divisional Personal
Officer, Northern Railway
DRMS office
New Delhi.

... Respondents

By Advocate: Shri P. S. Mahendru

O R D E R (ORAL)

Smt. Lakshmi Swaminathan, M(J)

The applicant has filed this application stating that he is aggrieved by the fact that the respondents have failed to consider his representation dated 30.9.91 for promotion to the post of Enquiry-cum-Reservation Clerk-I (Head ERC) and interpolation of his name at sl.no.352A in the seniority list published by the respondents on 16.10.87 (Annexure A-1).

2. We have heard the learned counsel for both the parties and perused the records. From the records it is seen that the applicant has challenged the seniority list which had been published on 16.10.87. This OA has been filed on 15.10.92. The respondents have taken a preliminary objection that the application is, therefore, barred by limitation under Section 20 of the Administrative Tribunals Act, 1985. (10)


3. Shri S. K. Sawhney, learned counsel for the applicant, on the other hand, submits that the respondents have taken the plea, denying applicant's claim based on the judgement of this Tribunal in Davinder Bathla & Ors. Vs UOI & Ors. TA.691/86 together with connected TA.856/86 decided on 7.12.90. He submits that the applicants in that case had filed S.L.P. against the order of the Tribunal which is pending in the Hon'ble Supreme Court. He relies on the order of the Supreme Court dated 15.7.91 where while granting S.L.P. it has been stated that "Any promotions made during the pendency of these Appeals shall be subject to the final adjudication by this Court." The learned counsel, therefore, submits that in the circumstances, since the decision of the Hon'ble Supreme Court in Bathla's case (supra) is pending, the present case is not barred by limitation.

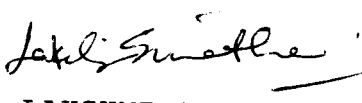
4. It is seen from the application, as also submitted by Shri P. S. Mahendru, learned counsel for the respondents that although in the last paragraph of

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the application the applicant has stated that his grievance is with regard to non-consideration of his representation of 30.9.91, the main issue raised by the applicant is with regard to his seniority in the seniority list published by the respondents on 16.10.87. In the circumstances, we find merit in ~~the~~ submission of the learned counsel that this application is barred by limitation. It is also settled position of law in a catena of judgments of the Hon'ble Supreme Court that it is not in the public interest to unsettle settled position. In the present case it is relevant to note that the applicant was well aware of the seniority list way back in 1987 and he has challenged this seniority list only in 1992. The applicant has also not filed any application for condonation of delay. Therefore, in the circumstances of the case, we find no good ground for condonation of delay of more than five years from the date of publication of the seniority list. (See observations of the Supreme Court in UOI Vs Ratan Chander Samanta (JT 1993(3) SC.418), Capt. Harish Uppal Vs UOI (JT 1994(3) SC.126), K. R. Mudgal & Ors Vs R.P. Singh & Ors (1986(4) SCC.531 and P. K. Ramchandran Vs State of Kerala (JT 1997(8) SC.189)). Apparently the applicant had objected to the seniority list only by his representation dated 13.9.91 to which, admittedly, he did not receive any reply, but that by itself does not explain the delay or give him a fresh cause of action.

5. For the reasons given above, we find that this application is barred by limitation and the same is accordingly dismissed. No order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)


(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)