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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 1765/93

New Delhi, this 7th Jan. 1994.

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)

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

Shri Harbhajan Singh,
Retd. Highly Skilled Machanist,
Loco Shed, Northern Railway,
Delhi Sarai Rohilla, Delhi

R/o Qr.No. 138-1 Loco Colony,
Delhi Sarai Rohilla, Delhi.

(By Advocate Shri B.S. Mainee)

... Applicant

Vs.

Union of India through

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway, Bikaner,

3. The Estate Officer,
D.R.M. Office, Northern Railway,
Bikaner.

... Respondents

ORDER

HON'BLE MR. J.P. SHARMA, MEMBER (J)

The applicant retired as highly skilled machanist, Loco Shed, Northern Railway on July 31, 1991. The grievance of the applicant is that these posts of machanists (Loco) were upgraded to highly skilled Grade I in December 1970 in the scale of Rs. 175-240. The payment of arrears against the upgraded posts were to be made with effect from 3rd June 1968.

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The applicant belongs to scheduled tribe. The applicant was called for trade test for the post of machanist Gr. I in December 1970 but he failed. However, he was not given relaxation of marks due to scheduled tribe employee. The applicant submitted the scheduled tribe certificate in 1971 and in November 1977 the applicant was declared pass in the ~~the~~ trade test and was given due seniority. The case of the applicant is that he has been the senior most machanist in the Bikaner Division and the case of the applicant was also considered in the PNM meeting at the Headquarters in November 1977 according to which he has been declared pass in March 1971. DRM has also suggested the payment of arreras from June 3, 1968 of the upgraded post of machanist. Since 1977 no decision was taken and the applicant made a representation in July 1982 to the DRM Bikaner Division but no effect. The case of the applicant is that he has also purused his case through the Union in 1986 and the General Secretary, URMU wrote a letter to DRM, Bikaner on 19.11.1986. Another letter was written in 1988 by the General Secretary, URMU who also took up the matter with the General Manager, Northern Railway pointing out the claim of the applicant for payment of arrears from 3.2.1968 of the upgraded in the post of Grade I in the scale of 175-240/-. Finally, in the P&M Meeting of 21.12.1992 the claim of the applicant was disallowed on the fact that the permission was not due because of his failure to pass medical classification of B-I prescribed for the category of HS Grade I machanist.

We have heard the learned counsel on the point of admission. The relief claimed by the applicant in this case

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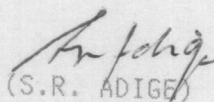
is the arrears of pay against the upgraded post of machanist Gr. I from June 3, 1968. This is obviously barred by the jurisdiction of the Tribunal as well as hit by limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

The learned counsel for the applicant argued that the Union has taken the matter on behalf of the applicant in the various P&M meetings which is a part of concillatory procedure available with the applicant Member of the Union. If the contention of the learned counsel is to be taken to be the foundation of the claim of the applicant in that case Union should have been made a party but the matter is purely personal of the applicant Shri Harbhajan Singh. He himself made a representation in 1982. He could have therefore agitated the matter on non receipt of any reply or non grant of relief prayed for at that time. Merely because he pursued the Union to take up his matter in 1986, 1988, 1990 would not cover the period of limitation. There cannot be an extention of limitation when the cause of action has started to run. The decision which has been taken in the P&M meeting of 1992 cannot be said to be the order of which the applicant is aggrieved. Certain problems on the basis of policy decision taken on the agenda of the PNM meeting in the present^{ce} of representatives of the unions. In due course, questions and answers arises for decision. That does not give any cause of action at least to a person who has already retired in July, 1991. The present application has been filed in August, 1993 when the applicant is not in service nor a member of the union.

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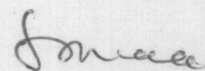
The law has been clearly laid down in the case of State of Punjab Vs. Gurdev Singh reported in 1991 (4) SCC 1 where the Supreme Court held that party aggrieved by an order has to approach the Court for relief within the prescribed period of limitation since after the expiry of the statutory time limit, the Court cannot give the relief sought for. Similarly in the case of S.S. Rathore vs. State of MP reported in AIR 1990 SC 10 wherein it is held that cause of action shall be taken to arise on the date of order of the higher authority disposing of the appeal or representation where no such order is made within six months after making such appeal or representation, the cause of action would have arisen from the date of expiry of six months. Repeated unsuccessful representations not provided by law do not extend the period of limitation.

In view of the above facts and circumstances of the case the present application is beyond the jurisdiction of the Tribunal and also barred by limitation and does not make out a prima facie case for admission. The O.A. is, therefore, dismissed, at the admission stage itself. No costs.


(S.R. ADIGE)

MEMBER(A)

Mittal


(J.P. SHARMA)

MEMBER(J)