

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

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OA No.2035/93

New Delhi, this 2nd day of July, 1999

Hon'ble Shri V. Rajagopala Reddy, VC(J)  
Hon'ble Shri S.P. Biswas, Member(A)

B.K. Mishra  
S-26, Mithila Vihar  
Prem Nagar, Delhi-41 .. Applicant

(By Shri K.P.Dohare, Advocate)

versus

Union of India, through

1. General Manager  
Northern Railway  
Baroda House, New Delhi
2. Chief Personnel Officer  
Northern Railway  
New Delhi
3. Dy. Controller of Stores  
N.Rly, Shakurbasti, Delhi
4. Smt. Krishna Setia, HC
5. Ashok Kumar Sondhi, HC
6. Smt. Shantik Sharma, HC
7. Smt. Veena Sharma, HC
8. Smt. Krishan Pal, OSI
9. Smt. Jatinder Kaur, HC
10. Shri O.P. Sharma, OSI  
All working in Northern Rly  
General Stores, Shakurbasti,  
Delhi .. Respondents

(By Shri R.K. Shukla, Advocate)

ORDER(oral)  
Hon'ble Shri S.P. Biswas

The short question that falls for determination in this OA is what remedy a Government employee can have in case he is aggrieved with the problem of seniority having been fixed to his determination during the course of his service career.

2. A brief description of background facts would be necessary to appreciate the legal issues involved in this case. These are as hereunder:

The applicant initially joined service as Clerk on 15.1.89 in Establishment section of General Stores Department at Shakurbasti under R-3. He became Sr. Clerk in April, 1983. On 25.11.82, an option was called for from persons similarly placed like the applicant herein for working in Ministerial Cadre on the Personnel side. Pursuant to that option, applicant offered for such posting in the said Branch vide his letter dated 3.12.82. Respondents apparently did not initiate any action on the finalisation of the options so received pursuant to the invitations called for 25.11.82. While the position remained so, respondents again invited for fresh options in July, 1987. This option did not, however, make any reference to the option called for earlier in 1983. The second option was also intended for finalising placement of officers/officials like the applicant herein for working in the personnel branch. Applicant did not submit/send any application pursuant to the second option invited in July, 1987.

3. It is in the background of the subsequent circular and the actions taken by the respondents on that that as many as six of them, as mentioned in para 4.18 of the paper book, who were juniors below the applicant in terms of seniority were promoted as Head Clerks. Respondents finalised the seniority of such officials and circulated the same by A-3 order dated 26.8.88. The list as on 30.6.88 has shown the applicant at Sl.No.9 whereas those juniors to him have been shown at Sl.No.1 to 8.

Applicant claims that the so-called juniors were promoted as Head Clerks and Assistant Superintendents but he has been wrongly denied the opportunity not only of regular promotion but also ad hoc promotion as Senior Clerk. He is also aggrieved that those juniors are in receipt of higher salary than him.

4. What is not in dispute is that the seniority list as at Annexure A-3 was duly circulated among all the officials including those working in both personnel and administrative branches. Applicant, however, admits that he made first representation against the said seniority list in 1993 i.e. after a lapse of about 5 years. It is the legality or otherwise of the applicant's claim for updating his seniority to that of the juniors' level that needs to be adjudicated in the application.

5. Such an issue stands well settled by the Hon'ble Supreme Court in the case of **ML Cecil De Souza Vs. UOI, AIR 1986 SC 2086**. That was the case where there was a delay of four years and 3 months in approaching the Tribunal for redressal of grievance in respect of seniority. Number of officers superceded the applicant therein in the meanwhile. The apex court held that if a person is sleeping over his rights and there is undue delay in approaching the Tribunal, the application deserves to be dismissed on laches alone. This is because the applicant was negligent and had acquiesced with his seniority. The apex court also pointed out that if any relief was to be given to

the applicant, that would adversely affect those persons in whose favour some right has accrued. The apex court also laid down that any one who feels aggrieved with an administrative decision affecting one's seniority should act with due diligence and promptitude and not sleep over the matter. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties. It would, therefore, appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after a lapse of some time. We find that the same situation prevails herein.

6. The apex court in the case of **S.S.Rathore & Vs.**

UOI 1990 ATC (L&S) 15 held that repeated representations do not obviate/take care of problem of delay. The applicant's case is hit by this principle as well.

7. The OA is hit by delays and laches and is accordingly dismissed. There shall be no order as to costs.

  
 (S.P. Biswas)  
 Member(A)

  
 (V. Rajagopala Reddy)  
 Vice-Chairman(J)

/gtv/