

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1262 of 1997.

Allahabad this the 12th day of March 2004.

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member-(J)

Kripa Nath Pandey
S/o Late Murfi Deo
(Ex Chief Inspector of Tickets)
Northern Railway, (Allahabad)
Resident of H. No.72/C/5, Matiarra
Road, Allahabad.

.....Applicant.

(By Advocate : Sri K.N. Katiyar)

Versus.

1. Union of India
through the General Manager,
Northern Railway, Head Quarters,
Office Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Sr. Divisional Personnel Officer,
N. Rly. Allahabad.
4. The Divisional Personnel Officer,
Northern Railway, Allahabad.

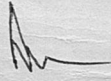
.....Respondents.

(By Advocate : Sri G.P.Agrawal)

O R D E R

(By Hon'ble Maj Gen K.K. Srivastava, A.M)

In this O.A. filed under section 19 of Administrative Tribunals Act 1985, the applicant has prayed for direction to the respondents to fix the pay of the applicant notionally (Proforma fixation as Chief Inspector of Tickets grade Rs.700-900 (RS) with retrospective effect from 01.01.1984 and revise the retiral benefits viz. Pension, gratuity, encashment etc. on such notional pay



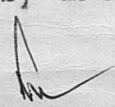
and early payment. The applicant has also prayed for payment of interest @ 25% per annum for delayed payment.

2. Sri A.K. Gaur learned counsel for the respondents raised a preliminary objections and submitted that the O.A. is highly barred by period of limitation and is liable to be dismissed. Learned counsel placed reliance on the following cases:-

- (a) CH. Venkateswara Rao Vs. Union of India & others, (1992) 21 Administrative Tribunals Cases 637.
- (b) Lakshamma (Smt) Vs. Union of India and another, (1992) 19 Administrative Tribunals Cases 333.
- (c) Commandant, TSP and others Vs. Easwaramoorthy 1999 Supreme Court Cases (L&S) 643.
- (d) Ramesh Chand Sharma Vs. Udham Singh Kamal & Others, 2000 Supreme Court Cases (L&S) 53.

3. Sri K.N. Katiyar learned counsel for the applicant on the other hand submitted that payment of pension is recurring cause of action and in such case the provision of Section 21 of Administrative Tribunal Act 1985 shall not apply. Learned counsel also submitted that the applicant was entitled to the benefits of restructuring promotion as Chief Inspector of Tickets from grade Rs.550-750 (RS) to Rs.700-900 with effect from 01.01.1984 by virtue of his higher seniority position. Therefore, it is a case of fixation of pay and same is recurring cause of action.


4. The learned counsel for the applicant inviting our attention to Annexure A-VIII i.e. Railway Board's letter dated 22.08.1986 submitted that the benefit of restructuring is to be given even to those who had retired but ~~were~~ in service on the relevant date. He also submitted that as per clarification issued by Headquarter's office by letter dated 05.09.1991




(Annexure A-IX), the applicant is entitled for proforma benefit in terms of PS No.9033. The learned counsel submitted that the applicant made representation on 23.03.1994 which was rejected by respondents on 31.03.1994. The applicant again filed representation in the year 1997 and when nothing was done by the respondents he filed this O.A. on 24.11.1997. Learned counsel for the applicant has placed reliance on the judgment of Hyderabad Bench of this Tribunal in the case of G. Ch. Pichaiah and others Vs. Divisional Engineer (Admn. and Planning) Guntur and others, (1994) 26 Administrative Tribunals Cases 385, and the judgment of Madras Bench of this Tribunal in the case of P.S. Subramanian and another Vs. Union of India and others, (1994) 26 Administrative Tribunals Cases 187. Learned counsel for the applicant has also placed reliance on the judgment of Hon'ble Supreme Court in the case of M.R. Gupta Vs. Union of India and others, 1995 Supreme Court Cases (L&S) 1273.

5. Heard learned counsel for the parties on the question of limitation before going into merit of the case. Admittedly the applicant retired on 31.05.1986 and he has filed this O.A. on 24.11.1997.

6. Learned counsel for the applicant has placed reliance on the judgment of Hyderabad Bench of this Tribunal in the case of G.Ch. Pichaiah and others (Supra) wherein it has been held that applicants' claim for notional promotion from 19.11.1982 could not be rejected as time-barred though monetary benefit could be restricted to one year prior to filing of application in the Tribunal. This case pertains to stepping up of pay of the applicant and therefore, the ratio laid down in this case shall not apply.

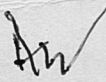


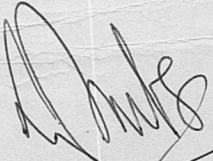
The learned counsel for the applicant has placed reliance on another case decided by Madras Bench i.e. case of P.S. Subramanian and another (Supra). The ratio laid down in this case also will not be helpful to the applicant. The judgment of Hon'ble Supreme Court in the case of M.R. Gupta (Supra) and ratio laid down by this Tribunal in its order dated 21.07.2000 in O.A. No.908/96 shall not be helpful to the applicant, In view of our observation in succeeding paragraphs of Hyderabad Bench of this Tribunal in the case of Ch. Venkateswara Rao (Supra). The Hyderabad Bench of this Tribunal in para 14 of its order in the case of Ch. Venkateswara Rao (Supra) has held that application for arrears of pay together with interest and interest of ^{the} delayed payment of retiral benefits filed about a decade after the retirement, is not maintainable. The Bangalore Bench of this Tribunal in the case of Lakshamma (Smt) ^(Supra) has held in para 6 that pension though a continuing right, could not be claimed after a lapse of very long period (more than 25 years in this case). The respondent's counsel has relied upon the judgment of Hon'ble Supreme Court in the case of Commandant, ISP and others (Supra) and submitted that no valid reason has been given by the applicant for seeking relief after a lapse of more than a decade. We find substance in the submissions of learned counsel for the respondents that no relief can be granted after a lapse of 11 years. The Hon'ble Supreme Court in the case of Ramesh Chand Sharma (Supra) has held that the Administrative Tribunal could not admit the time-barred application for which Condonation of ^{the} Delay has not been sought for. In the present no application for delay condonation has been filed by the applicant.



8. Besides in the present case, the applicant made a representation to the respondents on 23.02.1994 which was decided by the respondents by order dated 31.03.1994. By the said order, the respondents categorically informed the applicant that his promotion and fixation ^{of pay} has been given correctly and nothing was due to him from Railway Administration and also that he had been settled up correctly. In the said letter, the respondents made it clear that the Headquarter's office vide letter dated 05.09.1991 decided that the benefit could only be given to those persons on proforma basis in terms of PS No.9033 (on which the applicant has relied upon for claiming benefit) to those staff only on one promotion and not on subsequent promotion. Once the decision was conveyed to the applicant by order dated 31.03.1994, the applicant should have approached the Tribunal within ^a period of limitation prescribed under section 21 of Administrative Tribunals Act 1985 in case he was not satisfied with the order of the respondents dated 31.03.1994. The argument of the learned counsel for the applicant that the applicant filed a subsequent representation in the year 1997 and the same has not been decided, therefore, Section 21 of the Administrative Tribunal Act 1985 will not be attracted, has no substance. The legal position is well settled that the subsequent representations will not extend the period of limitation.

9. In view of above, we have no hesitation to observe that this O.A. is barred by period of limitation and is, therefore, dismissed being time-barred with no order as to costs.


Member-J.


Member-A.

Manish/-