

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 6th DAY OF JANUARY 1998

Original Application no. 1291 of 1997

HON.MR.JUSTICE B.C.SAKSENA,V.C.

HON.MR.S.DAS GUPTA, MEMBER(A)

Hemant Kumar Gupta aged about 48 years
Son of late Budhu Lal, r/o 316 A B, Mal
Godam Railway Colony, Allahabad and posted at
Locoshed under SSE.

... . . Applicant

Versus

1. Union of India through Divisional Mechanical Engineer(Power), Northern Railway, Allahabad.
2. Senior Section Engineer, Locoshed Northern Railway, Allahabad.
3. Sri A.F. Massey, Goods Train Driver Office Senior Section Engineer Locoshed Northern Railway, Alld.

... . . Respondents

O R D E R (Reserved)

JUSTICE B.C.SAKSENA,V.C.

We have heard the learned counsel for the applicant when the OA came up for orders as regards admission.

2. The applicant's case is that he was appointed as Cleaner in Northern railway on 18.2.1976. The applicant's case is that there were three categories of cleaners, first direct recruits and second were by change of designation and of category. The applicant's claim is that respondent no.3 was initially appointed as Khalasi and he joined as Cleaner only on 18.2.76 by change in designation and the interse seniority between the applicant and the respondent no.3 should have been assigned from the date of resumption as Cleaner as per clause 4 of the Railway Board's circular dated 7.8.79. According to the applicant a provisional seniority list was issued on 31.7.79 in which the name of the applicant was shown at sl. No. 781 and the name of the respondent no.3 was shown

at sl. no. 495. He further states that some more juniors of the applicant were also placed at ~~the~~ ^a higher serial no. in the said seniority list. The applicant's case is that when he came to know about the seniority list then he moved a representation dated 5.10.84 to the DRM for correction in the said seniority list. The applicant has further indicated the dates of his promotion to next higher post viz Fireman, Diesel Shunter, Diesel Assistant etc. the applicant was promoted as Diesel Shunter on 1.7.79. The applicant has stated that on the basis of his claim for seniority against respondent no.3 in the post of Cleaner the applicant was entitled to promotions as Diesel Assistant from July 1993 and then to Goods Train driver from May 1995 alongwith respondent no.3. The applicant has prayed for the same relief viz a mandamus be issued to the respondents to fix seniority of the applicant at par with respondent no.3 and to give benefit to the applicant of the circular dated 7.8.79 and a further mandamus be issued to promote the applicant to Diesel Asstt. from July 1993 and then to Goods Train Driver from May 1995.

3. After having heard the learned counsel we specifically put it to the learned counsel to indicate that since the applicant is virtually seeking correction of his seniority position in the seniority list issued as far back as 31.7.79 for the post of Cleaner the OA is highly belated. The learned counsel for the applicant submitted at the bar that the applicant had been making representations and however there is no reference to any representation having been made and even if it be so it is fairly well settled that repeated representations do not arrest the limitation from running.

4. There is another aspect which persuades us to dismiss this OA summarily. The claim for change in seniority is based on the cause of action which accrued on the issuance of the provisional seniority list dated 31.7.79. The said cause of

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action accrued three years prior to the Constitution of the Tribunal viz in the year 1985. The OA is highly belated and is accordingly dismissed summarily.

W.E.

MEMBER (A)

B. Chakravarthy

VICE CHAIRMAN

Dated: January 6th 1998

Uv/