

224494-3613

(Open Court)

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 1063 of 1997.

Allahabad this the 18th day of March, 2002.

Q U O R U M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Maj. Gen. K.K. Srivastava , A.M.

S.S. Pandey S/o Late D.S. Pandey  
Senior Section Engineer/S.T  
Tool Maker Trade, D.L.W, Varanasi.

.....Applicant

Counsel for the applicant :- Sri Sudhir Agrawal  
Sri Pradeep Pandey

V E R S U S

1. Union of India through the Secretary,  
M/o Railways, New Delhi.
2. The General Manager (Personnel), Indian Railway,  
Diesel Locomotive Works, Varanasi.

.....Respondents

Counsel for the respondents :- Sri Amit Sthalekar

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

This OA under section 19 of the Administrative Tribunals Act, 1985, has been filed challenging order dated 07.05.1997 (annexure- 1) by which representation of the applicant has been rejected.

2. The facts giving rise to this application are that the applicant was selected <sup>by</sup> Railway Service Commission as Trainee Chargeman. After training, he was

appointed as Chargeman Grade 'C' in Tool Maker category on 10.12.1964. He was promoted as Chargeman Grade 'B' on 27.07.1966. The Railway Board in 1970 introduced the Advance Correction Slip (ACS) notification amending para 328 of the Railway Establishment Manual Vol. I by which promotion granted between 01.08.1961 to 01.04.1965 in Ministerial category and from 01.08.1961 to 01.01.1969 in non-Ministerial category were affected. This ACS-70 was challenged in Court and ultimately the matter <sup>Went</sup> ~~list~~ before the Hon'ble Supreme Court in shape of SLP No. 1643/1984. Hon'ble Supreme Court by judgment dated 11.01.1989 quashed the ACS-70 and held <sup>it</sup> ultra vires. The applicant in the mean-time was promoted as Assistant Shop Superintendent on 04.01.1979 on adhoc basis. He was regularised on this post on 08.05.1987. Then he was promoted as Shop Superintendent on 30.12.1988. Then a list was prepared for Mechanist Supervisor Gr. 'B' on 30.09.1994. It is claimed that this list was circulated in 1996. The applicant filed representation on 31.10.1996 (annexure-12). A reminder was given on 03.12.1996. The representation, however, has been rejected by the impugned order dated 07/08.05.1997 aggrieved by which the applicant has approached this Tribunal.

3. The relief claimed is that the respondents may be directed to recast the seniority list ignoring the ACS-70 which was quashed by the Hon'ble Supreme Court. The learned counsel has placed reliance in the orders of this Tribunal dt. 05.12.2000 passed in O.A 170/1998 Mohd. Ali and another Vs. U.O.I & Ors. and order dt. 15.05.2000 passed in O.A 15/1994 Ram Prasad Pandey Vs. U.O.I & Ors.





4. CA has been filed by the respondents resisting the claim of the applicant on question of limitation. It has been stated that as the judgment of Hon'ble Supreme Court had come in existence in January, 1990, they ought to have approached this Tribunal immediately for the grievance. It is also submitted that the applicant is not entitled for the <sup>relief from</sup> judgment of the Tribunal, as this benefit was given to those who were party in the case. Lastly, it has been submitted that after such a long time, it is difficult to grant relief to the applicant.

5. We have considered the submissions of counsel for the parties.

6. Coming to the question of limitation, we have <sup>hesitation</sup> no ~~regitation~~ in saying that no delay is involved. The list was prepared on 13.09.1994 for promotion as Mechanist Supervisor Grade 'B' which came to the knowledge of the applicant in 1996. He immediately filed representation on 30.10.1996 and made reminder on 03.12.1996. The said representation was arbitrarily rejected by the impugned order dated 07/08.05.1997. This OA has been filed on 03.10.1997. Thus, there is no delay. The applicant has approached this Tribunal within time provided under section 20 of the AT Act.

7. Coming to the merits, on perusal of impugned order, it is clear that the respondents have not decided the representation of the applicant in the light of judgment of Hon'ble Supreme Court in Harbans Mishra and others Vs. Railway Board and orthers in Civil Appeal No. 1643/1984. This Tribunal, in the order mentioned above and relied on by the applicant, has given clear direction that the benefit of the judgment is available to all similarly situated persons.

*[Signature]*

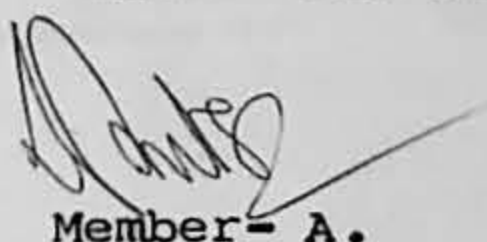
Operative part of the order in Mohd. Ali case is being reproduced below :-

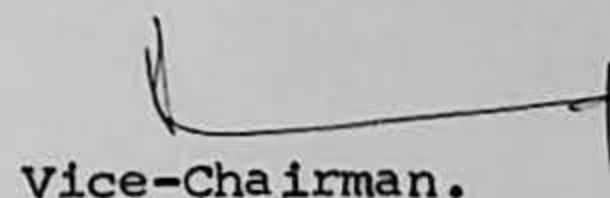
" Having regard to the reasons given above and in the facts and circumstances of the case, we allow the OA and quash the seniority list of T.K.O staff working as Superintendent T.K.O in the grade of Rs. 2000-3200 as on 01.02.1997 (annexure-1) and direct the respondents to assign seniority to the applicants as Senior Time Keeper on the basis of their having qualified the examination in 1967 and consider them for promotion to the post of Head Time Keeper in the light of judgment of Hon'ble Supreme Court in Haribans Mishra's case dated 11.01.1989 (Supra), determining their rightful position, seniority and promotions in all higher grades accordingly with all consequential benefits. This exercise shall be done within six months from the date of communication of this order. "

We are in respectfull agreement with both the orders of this Tribunal and, in our opinion, the applicant is entitled for the reliefs.

8. For the reasons stated above, this OA is allowed. The order dated 07/08.05.1997 (annexure-1) is quashed. The respondents are directed to re-consider the representation of the applicant and pass a fresh order in the light of the judgment of Hon'ble Supreme Court and grant him relief accordingly in respect of seniority, promotion etc. with all consequential benefits.

9. There will be no order as to costs.

  
Member- A.

  
Vice-Chairman.

/Anand/