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(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 9<sup>th</sup> day of Aug, 2002.

Original Application No. 638 of 1997.

C O R A M :- Hon'ble Maj. Gen. K.K. Srivastava, Member- A.  
Hon'ble Mr. A.K. Bhatnagar, Member- J.

Ashok Kumar Dubey S/o Sri Mahadev Prasad Dubey  
R/o 496/F, Balaipur Railway Colony, Northern Railway,  
Allahabad.

.....Applicant

Counsel for the applicant :- Sri B.N. Tewari

V E R S U S

1. Union of India through the Chief Medical Director,  
Northern Railway Hospital, Delhi.
2. Divisional Railway Manager,  
Northern Railway, Allahabad.
3. Chief Medical Officer, Northern Railway  
Hospital, Allahabad.
4. Chief Medical Superintendent, Northern Railway  
Hospital, Allahabad.

.....Respondents

Counsel for the respondents :- Sri P. Mathur

O R D E R

(By Hon'ble Mr. A. K. Bhatnagar, Member- J.)

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the respondents be directed to promote the applicant on the post of Dresser and pay salary to the applicant as Dresser since 02.07. 1989.

2. The facts, in short, giving rise to this O.A as per the applicant are that he was appointed on compassionate ground
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as Hospital Attendant by the Chief Medical Superintendent, Northern Railway, Allahabad on 22.04.1982. He was up-graded as Senior Hospital Attendant by order dated 20.05.1994. The applicant has been working as Dresser, Northern Railway Hospital since 02.07.1989. The applicant appeared in the test for selection to the post of Dresser in pay scale of Rs. 800-1120 on 20.09.1996 before the Medical Superintendent, Northern Railway, Kanpur. The applicant has not been appointed on the post of Dresser where<sup>h</sup>as<sup>h</sup> one Sri Ram Singh Meena, who also appeared in the test on 20.09.1996 alongwith the applicant, has already been appointed on the post of Dresser in Railway Hospital, Tundla and also one Sri Ashok Kumar Patel has been appointed in higher grade at Mirzapur. The applicant represented against this to the authorities concerned on 13.01.1997 and 17.01.1997 (annexure A- 3 and A- 4). The authorities concerned have taken no decision. Hence this O.A which has been contested by the respondents by filing counter reply.

3. Sri B.N. Tewari, the learned counsel for the applicant submitted that the applicant has been working as Dresser since 02.07.1989. He also appeared in the test for selection on the post of Dresser but so far the respondents have taken no action to post the applicant as Dresser. The attitude of the respondents is discriminatory because the others, who also appeared in the test, have been appointed as either Dresser or in the higher grade but the applicant has not been appointed at all inspite of the fact that he is fully qualified to be appointed as Dresser and has got ample experience of working as Dresser since July, 1989.

4. The learned counsel for the applicant further submitted that the applicant was informed that he has qualified in the test and would be appointed on the post of Dresser. The learned counsel for the applicant assailed

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the version of the respondents that the applicant failed in the test held on 20.09.1996. The promotion to the post of Dresser should have been on the basis of seniority which has not been done as is evident that one Sri A.K. Patel, who was appointed on 15.12.1983 as Hospital Attendant, has been posted as Dresser which is in higher grade ignoring the claim of the applicant. Para 4.6 and 4.8 of the O.A are relevant which have not been controverted by the respondents in their CA.

5. The learned counsel for the applicant finally submitted that the selection test held on 20.06.1996 at Kanpur for promotion to the post of Dresser was simply ~~a hope, say~~ <sup>nothing and</sup> nothing else.

6. Resisting the claim of the applicant, the learned counsel for the respondents submitted that the post of Dresser is a selection post and one cannot be promoted as a Dresser without passing the suitability test. The applicant did appear in the test held on 20.09.1996 but since he did not clear the selection, he has not been appointed as Dresser.

7. The learned counsel for the respondents further submitted that the relief claimed by the applicant is for pay from 02.07.1989. This O.A has been filed on 26.05.1997. Hence the relief claimed is grossly time barred and the O.A is liable to be dismissed.

8. We have considered the submissions of counsel for the parties and have perused the records.

9. We find force in the submission of learned counsel for the respondents that since the applicant has not <sup>been</sup> qualified the selection test held for the post of Dresser

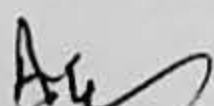
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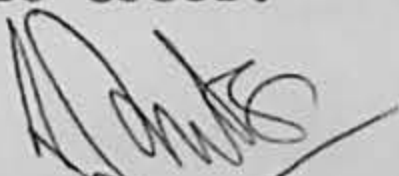
held on 20.09.1996, the applicant cannot be appointed as Dresser. The applicant cannot be granted any relief on this count and the O.A is devoid of merit.

10. The applicant has claimed for pay of Dresser w.e.f 02.07.1989. From the perusal of the record, we find that the applicant has been keeping quiet for number of years and it was only for the first time on 13.01.1997 that he represented to the authorities concerned about his promotion on the ground that he has been working as Dresser since 02.07.1989 (annexure A- 3). Another representation, which is on record, is dated 17.03.1997. It appears that the applicant never took any action in this regard at the appropriate time and raised the issue only in 1997 after a lapse of more than 7 years. The proper course for the applicant was to have approached the authorities immediately after he started working as Dresser and in case his grievance was not redressed, he should have approached the Tribunal for legal remedy which the applicant did not. The O.A has been filed on 26.05.1997 claiming the grade w.e.f 02.07.1989. The case is grossly time barred and is liable to be dismissed on the ground of limitation as well.

11. In view of the aforesaid, the O.A is dismissed being devoid of merit and also time barred.

12. There shall be no order as to costs.

  
Member- J.

  
Member- A.

/Anand/