

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

...

Original Application No. 657 of 1997
this the 6th day of June 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)
HON'BLE MR. C.S. CHADHA, MEMBER (A)

Uma Kant Srivastava, S/o late Sri Jagdeo Lal, aged
about 68 years, R/o House No. N-12/304 J-12 Shiv Raj
Nagar Colony, Mahmoorganj, Varanasi.

Applicant.

By Advocate : Sri P.K. Sinha.

Versus.

1. Union of India through Secretary, Ministry of
Railways, New Delhi.
2. General Manager (personnel), N.E.R., Gorakhpur.
3. Divisional Railway Manager (personnel), N.E.R.,
Varanasi.
4. Chief Personnel Officer, N.E.R., Gorakhpur.
5. Chief Commercial Supdt., N.E.R., Gorakhpur.

Respondents.

By Advocate : SKM. Renu Singh for Sri A.K. Gaur.

ORDER

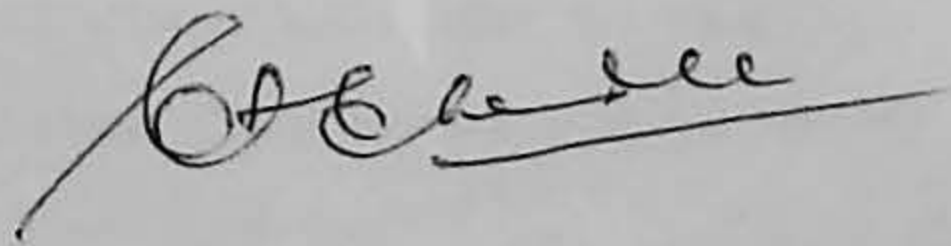
BY HON'BLE MR. C.S. CHADHA, MEMBER (A)

This O.A. has been filed under section 19 of the
Administrative Tribunals Act seeking to get the order
of the respondents dated 20.12.96 quashed. Consequently,
the applicant has claimed promotion to the grade of
office Supdt.-II since 1991 and seniority in the grade
of Head Clerk w.e.f. 1979 (both benefits have been
claimed as reliefs without mentioning the exact date
from which such reliefs are being claimed). As a
result of such back dated seniority/promotion, the
applicant has also claimed consequential benefits in

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his retiral dues. The applicant has also sought the relief of grant of Dearness Allowance which is due to the applicant, with 18% interest thereon.

2. The brief facts of the case are that the applicant was appointed in the Railways as a Junior Clerk w.e.f. 20th April'48 and was promoted to the rank of Senior Clerk w.e.f. 9.7.58 and later as Head Clerk from 10.11.81. The applicant has claimed that he was promoted as Head Clerk in the vacancy created by the promotion of one Sri Jawaharlal as Office Supdt. Gr.-II w.e.f. 17.10.81. The applicant has further averred that despite his promotion as Office Supdt. Gr.II w.e.f. 17.10.81, Sri Jawaharlal was granted seniority in that grade w.e.f. 1.1.79 and, therefore, he should be considered to have been promoted as Head Clerk from 1.1.79. His claim for grant of seniority from 1.1.79 as Head Clerk was not conceded by the respondents at that time. A further grievance of the applicant is that in 1981 and 1982, there were examinations for selection as Office Supdt. Gr.II but in 1981 despite representations he was not even allowed to sit for written examination and after the 1982 examination, in which he appeared, no results were declared and neither was he appointed to the higher post. Vide Annexures 4 & 5 dated 14.12.81 and 9.6.82 the applicant claims to have filed representations against the alleged injustice, but did not receive any reply from the respondents. However, he was given ad hoc promotion to the grade of Office Supdt-II w.e.f. 31.12.85. Although it has not been mentioned in the O.A. the applicant retired in July'87; this can be deduced from the fact that from the seniority list submitted by him as Annexure-3 it can be seen that his date of birth was 12.7.1929.



3. Apparently the applicant filed yet another representation more than 7 years after his retirement before the General Manager, Gorakhpur, who rejected his claim vide the impugned order dated 20.12.96.

4. Without going into the merits of the case of the applicant, the first issue to be considered, as raised by the learned counsel for the respondents, is whether the O.A. is time-barred or not. The cause of action to the applicant arose in 1981 when his name was not sent for examination for selection to the post of office Supdt.II. A further cause of action arose, according to the applicant, in 1982 when despite his appearing in the examination and viva voce test, the results were neither declared, nor was he promoted. Apparently, he also took recourse to filing representations before the authorities at that time, vide Annexures 4 & 5 dated 14.12.81 and 9.6.82 respectively. In the normal course, he should have approached a Court of Law (as the Tribunal did not exist at that time) within one year of filing of the said representations which remained unheeded. The present O.A. is, therefore, highly time-barred. The applicant claims limitation to have begun from the date of passing of the impugned order dated 20.12.96. We are afraid that after remaining silent for nearly 14 years between 1982 and 1996, a fresh representation after nearly 7 years of retirement, for a cause of action that arose in 1981 and 1982 cannot grant him a fresh lease of life. Infact the respondents would have been well within their rights to have rejected the applicant's representation dated 9.8.96 simply as time-barred. Merely because the General Manager (personnel), Gorakhpur, entertained his highly time-barred application, it gives no right to the applicant to treat his belated representation as being

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within time. The learned counsel for the respondents has relied on a Judgment of the Supreme Court in the case of Administrator of Union Territory of Daman & Diu and Others Vs. R.D. Valand (1996 SCC (L&S) 205) in which the Supreme Court held that a time barred application does not become within time by successive representations being made without any result. In that case the Apex Court held "the Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way". Therefore, in accordance with the principles laid down in the said judgment, we conclude that in view of the applicant's representation dated 14.12.81 and 9.6.82 having gone unanswered, fresh limitation could not begin on his filing yet another representation 14 years thereafter. We are, therefore, clear in our minds that this O.A. is not worth consideration, being highly time-barred. Therefore, the benefits of seniority as Head Clerk, consequent promotion as Office Supdt.II and consequential retiral benefits cannot be granted to the applicant.

5. As regards the grant of dearness allowance, although the applicant in para VIII(3) of his O.A. has claimed the said relief by stating " the Hon'ble Tribunal may be pleased to direct the respondents to pay the dearness allowance which is due with interest of 18% to the applicant forthwith", in the body of the O.A. he has neither made any averment on this account nor has he given any details of his claim for dearness allowance. Even in the relief clause quoted above, no details have been furnished and, therefore, it is impossible to grant him any relief on this score as well. Another important legal issue is that multiple unrelated reliefs

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cannot be granted on filing of one O.A. This O.A. is basically against the denial of promotion to him as office Supdt.II and consequential retiral benefits. The claim of dearness allowance has nothing to do with the denied promotion and, therefore, cannot be granted as a relief in this O.A. Further the respondents have averred that the applicant never made any representation for the said Dearness Allowance before his retirement. Although there is no mention of this claim in the body of the O.A., the applicant has filed a copy of a representation in this behalf dated 7.5.90 (Annexure-6) i.e. long after his retirement. For arguments sake even if it is considered that the applicant could file such an application in 1990, since he did not get any relief thereafter he should have filed an O.A. latest by 6.5.91, whereas he filed this O.A. on 5.6.97. Therefore, despite being not entertainable on the ground of multiple remedy being claimed, this O.A. is highly time barred even for the claim of Dearness allowance and, therefore, the relief of grant of Dearness allowance made in very vague terms cannot be granted to him.

6. In the above circumstances, the O.A. is rejected as being highly time barred. There shall be no order as to costs.


MEMBER (A)


MEMBER (J)

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