

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 170 of 1998

Allahabad this the 5<sup>th</sup> day of December, 2000

Hon'ble Mr.V.K. Majotra, Member (A)  
Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. Mohd.Ali son of Basit Ali, resident of 135, P.D.L.W., Varanasi.
2. Ram Prasad, Son of Cholai Ram, resident of 175 B, D.L.W, Varanasi.

Applicants

By Advocate Shri Satish Chandra

Versus

1. Union of India through Chairman, Railway Board, New Delhi.
2. Secretary, Ministry of Railways, Government of India, New Delhi.
3. General Manager, Diesel Locomotive Works, Varanasi.
4. Sheo Ram Singh, S/o B.M. Singh, Supdt. Time Office, D.L.W., Varanasi.
5. F.A. & C.A.O./D.L.W., Varanasi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R

By Hon'ble Mr.V.K. Majotra, Member 'A'

The applicant is seeking for quashment of seniority list(annexure-1) and direction to the respondents to assign seniority and accord promotions to the applicants as Senior Time Keeper and Head Time

Keeper respectively in the light of Judgment dated 11.1.1989 passed by Hon'ble Supreme Court in C.A.No.1643 of 1984 Haribans Misra and Others Vs. Railway Board and Others, with consequential benefits. The applicants were initially appointed as Junior Time Clerk in 1964. They were promoted as Senior Time Clerk in 1967 on regular basis. The Railway Board issued Advance Correction Slip 70 (for short A.C.S.-70) to I.R.E.M. vide Railway Board's letter dated 14.12.1971. As per provisions contained in para-328(2) of A.C.S.-70, all selections and promotions made in the D.L.W., Varanasi, upto the date of notification of these rules i.e.11.3.73 were declared null and void and promotions and seniority of the staff were to re-determined in terms of rules laid down in A.C.S.-70. Although the applicants made representations in 1989 that respondent no.4-their junior, who has passed the suitability test later than they in 1970, whereas the applicants passed the test in 1967, <sup>he has been promoted</sup> hence his ~~promotion is~~ <sup>earlier than the applicant's</sup> promotion is illegally. The respondents rejected the applicants representations on 26.4.1989, replying that fresh seniority list has been determined as per A.C.S.-70(annexure-2). According to the applicants after the judgment in Haribans Mishra's case the respondents have given benefit to several persons similarly situated, but the applicants have been denied the benefits.

2. The respondents have contested the O.A., mainly on the ground that applicants claim is barred by limitation and that the Apex Court Judgment is

a judgment in personam and not in rem, thus, the applicants are not entitled to the benefits under the judgment.

3. The respondents have further stated that the date of appointment of respondent no.4 in the initial recruitment grade i.e. Time Clerk Grade ~~is~~ Rs110-180(AS) is 06.4.64 and applicants no.1 and 2 were initially appointed as Time Clerk w.e.f. 23.11.1964 and 20.5.65 respectively. Thus, Respondent no.4 was senior to the applicants, as Time Clerk. In the seniority list of Senior Time Clerk as on 31.8.1981, the respondent no.4 was given seniority position w.e.f. 01.1.1968 above the applicants and the applicants have been given position w.e.f. 01.1.1968 and 01.1.1971 respectively below respondent no.4. Based on relative seniority position of the applicants and respondent no.4 as time Clerk and Senior Time Clerk, they have further been promoted in the next higher grade and assigned seniority position as Head Time Clerk, Chief Time Clerk and Office Superintendent(Time). The applicants have been assigned seniority position below respondent no.4.

4. We have heard the learned counsel of both sides and considered the material available on record.

5. Learned counsel of the respondents has contended that whereas the dispute relates to the year 1974 and the Supreme Court judgment was available in the year 1989, the applicants

have come up with the present O.A. on 10.2.1998 having caused an inordinate delay. The O.A. is, therefore, badly barred by limitation.

6. On the question of limitation, learned counsel of the applicants has drawn our attention to the following cases;

- (a) (1991) 18 A.T.C.367 Tota Ram Sharma Vs. U.O.I. & Ors.
- (b) 1998 S.C.C.(L&S) 226 K.C. Sharma and Ors. Vs. U.O.I. & Ors.
- (c) Order dated 15th May, 2000 in O.A.No.15 of 1994 Ram Prasad Pandey Vs.Union of India and Others.

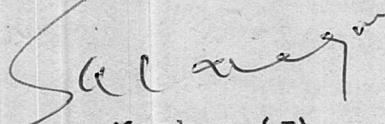
In the cases of K.C. Sharma and Others and Ram Prasad Pandey(supra) , it has been held that delay in filing the application should be condoned where benefit of judgments to other similarly situated persons is in question. We, therefore, do not find any justification to dismiss the O.A. on the point of limitation.

7. As A.C.S.-70 has been declared invalid by the Hon'ble Supreme Court, decision in Hariband Mishra's case, the applicant's seniority and promotions as Senior Time Keeper and Head Time Keeper, have to be determined again in the light of the afore-stated judgment.

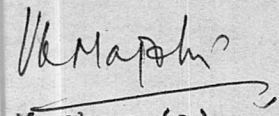
8. Having regard to the reasons given

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above and in the facts and circumstances of the case, we allow the O.A. 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 01.2.1997 (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 11.1.1989(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. No costs.

  
Member (J)

/M.M./

  
Member (A)