

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 237 of 1998

Allahabad this the 31/3 day of March 1998

Hon'ble Mr. D.S. Baweja, Member (A)
Hon'ble Mr. J.P. Sharma, Member (J)

Shri Alim Imran, S/o Sri R.U. Siddiqui, R/o 14,
Saharara Bagh, Allahabad.

Applicant

By Advocate Sri K.S. Misra

Versus

1. Union of India through the Secretary, Ministry of Railway, Govt. of India, New Delhi.
2. Chairman, Railway Board, Railway Bhawan, New Delhi.
3. Divisional Railway Manager, Northern Railway, Allahabad.

Respondents

ORDER

By Hon'ble Mr. D.S. Baweja, Member (A)

This application has been filed challenging the orders dated 25.10.95 and 06.11.1997 as per which the applicant's request for appointment under loyal quota in railways has been rejected. The applicant prays for direction to be issued to the respondents to appoint him on a suitable post with all consequential benefits.

2. Father of the applicant is working as under Chief Ticket Inspector, Divisional Railway Manager, Allahabad, Northern Railway. There was a general strike in the railways during 1974. The applicant's father did not participate in the strike and remained loyal to the administration. The applicant states that in terms of the circular dated 01.6.1974, four benefits were allowed to the loyal workers which included the provision of employment of children and dependant of the loyal railway employee. The applicant was minor at the time of strike in the year 1974. The applicant became major in 1984 and the father of the applicant made a representation dated 02.7.84 for appointment of his son i.e. the applicant in railways under the loyal quota. Thereafter several representations were sent in and the last representation being 1995. The first reply was received by the applicant in response to his representations as per letter dated 18/25-10-95 as per which the request for appointment was rejected. On further representation, the request for appointment was again rejected as per order dated 06.11.1997. Being aggrieved by this rejection, the present application has been filed on 27.2.1998.

3. The applicant has challenged the impugned orders on the ground that several appointments have been given under the loyal quota and denial of appointment to the applicant is discriminatory and arbitrary and has been done with malafide intentions in violation of the Article 14 and 16 of Constitution of India. The

guide lines laid down as per letter dated 01.6.1974 are statutory in nature and the denial of appointment has been done in violation of these instructions and in violation of principle of natural justice. The applicant also contends that since the applicant was minor at the time of strike, the right for appointment remained pending till he attained the age of majority. The applicant also submits that the impugned orders are non-speaking as no reasons have been indicated. No opportunity of hearing has also been given before passing these orders.

4. Heard Sri K.S. Misra counsel for the applicant on the point of admission and also on the maintainability of the O.A.

5. Before going into the merits with regard to whether there is any case at all for admission of the O.A., we will first examine whether the O.A. has been filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985. From the facts it is noted that first rejection of the request of the applicant for appointment was done as per order dated 18/25-10-95. The second impugned order dated 06.11.1997 only reiterates what has been stated in the earlier order. As per the provisions of Section 21, the applicant should have agitated the matter for legal remedy if aggrieved by the order dated 18/25-10-95, within a period of one year. However, as indicated earlier the present application has been filed only on 27.2.98. Based on these facts, it is quite obvious that the present application is barred by limitation. Apart from this,

it is noted that the applicant became major in 1984 when the applicant became eligible for appointment if the contention of the applicant is accepted for a moment. The applicant has been keeping quiet since then till 1998 i.e. for a period of 14 years. The applicant has brought out that he has been sending several representations to the various authorities. Submission of the repeated representations will not give the benefit of the extension of the limitation. If the representation of the applicant did not get any response, he could have agitated the matter for legal remedy at the earliest possible time. The applicant has neither given any explanation for delay nor any prayer has been made to condone the delay in filing the O.A. Keeping these observations in view, we hold that the present O.A. is barred by limitation.

6. Even though the application is barred by limitation as brought out above, we are going into the merits of the prayer made. The applicant has submitted that he is entitled for appointment under the loyal quota as per the scheme detailed in letter dated 01.6.74 at A-2. On going through the letter, it is noted that this is a demi official letter written by Chief Personnel Officer based on the Railway Board's letter dated 15.5.74 and the demi-official letter dated 30.5.74 of the Member staff, Railway Board. Copies of these letters of Railway Board have not been brought on record. However, from the contents of the Railways' Board letter dated 01.6.94, it is noted that it was only one time measure to reward the loyal workers. In para 4

of this letter it is clearly mentioned that the staff who have rendered outstanding service, should be considered for the reward in the order of priority, dependent upon the nature of meritorious service rendered. In para-5 it is also mentioned that staff to be covered under the reward of employments of children or dependents will necessarily be limited. From the impugned letter of 06.11.1997 it is noted that the scheme of the loyal quota had been withdrawn in the year 1976. In view of this, no right exists to claim the concession of the appointment by a ward of the loyal railway servant on any subsequent date after several years when the scheme is no longer in operation. Therefore, the contention of the applicant that right of appointment remained pending till the applicant attained the age of majority is not sustainable and lacks merit.

7. The applicant has brought out that the instructions laid down as per letter dated 01.6.74 are statutory in nature and the applicant has been denied the benefit of the statutory provisions. As indicated earlier, the copies of the Railways Board's letters referred to in letter dated 01.6.74, have not been brought on record. However, from the letter dated 01.6.74, we are unable to comprehend that the same has been issued as statutory instructions under the power vested under Article 309 of the Constitution of India.

8. The applicant has contended that the impugned orders are non-speaking and no reasons for rejecting the representations of the applicant have been indicated. The applicant has also averred that no opportunity of hearing has been provided to him. On going through the impugned orders, we find that reasons for rejection/for appointment of the request

under loyal quota have been clearly spelled out and we are unable to agree with the contention of the applicant. Further the applicant has not brought out that as to how the personal hearing was necessary to dispose of his representation. The applicant had made a representation, stating his case and the same has been examined as per the extant rules. We do not find any substance in the arguments of the applicant that he has been denied reasonable opportunity of presentation of his case before rejecting his representation.

8. The main argument of the applicant is that he has been discriminated as several wards of the loyal railway employees have been given appointment and, therefore, there is a violation of Article 14 and 16 of Constitution of India. This plea of the applicant is tenable only incase the guide lines laid down by the respondents for giving appointment under the loyal quota are statutory in nature. From perusal of the the guide lines laid down, it is noted that the appointment under the loyal quota had been provided in violation of the recruitment rules and, therefore, providing of appointment under loyal quota cannot be held as legal and constitutional. These instructions violate the provision of articles 14 and 16 which lays down equal opportunity for employment. In this connection we referred to the order of this Tribunal dated 30.1.97 in O.A. 192/96, where one of us was the Member of the Bench-- and same issue has been examined. It has been held that the scheme of loyal quota is illegal and unconstitutional. We are in ^{with} respectful agreement with what has been held in this

order. Once the guide lines under which the appointment under loyal quota was provided, are illegal and unconstitutional, then no discrimination under Article 14, if the appointment is not given, can be alleged. The provision of Article 14 cannot be extended to legalise the illegal action if the ~~some~~ have got benefits of the orders which are illegal, the same cannot be claimed by the others on the plea of discrimination. In this connection we refer to what is held in para 3 of the judgment of Hon'ble Supreme Court in the case of Harpal Kaur Chahal (Smt.) Vs. Director Punjab Instructions and another 1996 S.C.C. (L & S) 226. In view of what is held by the Hon'ble Supreme Court in the judgment referred to ^{made above} and the other observations, the plea of discrimination does not hold good.

9. Several original applications have been filed under the loyal quota before this Bench as well as before the other Benches and these original applications have been dismissed. In this connection we referred to the order dated 16.4.96 of this Bench in O.A. No. 183 of 1996 Man Singh vs. Union of India, and other connected cases, where the similar prayer for appointment under the loyal quota, has been dismissed. We also referred to the order in the case of 'S.D. Deokar and anr. Vs. Union of India and Others 1998 (1) A.LI 260, where the similar issue of loyal quota has been considered and the O.A. has been dismissed as having no merits. We are in respectful agreement with what is held in these orders. ^{.....} pg.8/-

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10. In the light of the above discussions, we find that the O.A. is not only barred by limitation but also is devoid of merits. Thus, the O.A. is not maintainable and the same is accordingly dismissed at the stage of admission.

J. M. Shannan
Member (J)

D. R. Lucy
Member (A)

/M.M./