

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.
ORIGINAL APPLICATION NO. 275 of 1998.

ALLAHABAD THIS THE 14TH DAY OF MARCH, 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

Hon'ble Mr. K.S. Menon, A.M

Dubri Pandey, aged about 48 years,

Son of Shri Shobhnath Pandey,

Resident of Mohalla Chanduwa, Chhottapur, Quarter No.C33/204-31,A, Varanasi.

.....Applicant

(By Advocate: Shri S.U Khan)

Versus.

1. Union of India, through General Manager, Baroda House, Northern Railway, NEW DELHI.
2. Divisional Railway Manager, Northern Railway Hazratganj, Lucknow.
3. Sr. Divisional Personnel Manager, Northern Railway, Hazratganj, Lucknow.
4. Sr. Selection Engineer, (Carriage & Wagon) Northern Railway, Varanasi.
5. Kailash son of Sahdeo through Senior Selection Engineer, Varanasi.
6. Shyam Narayan, son of Shri Amir Chand, through Sr. Selection Engineer, Varanasi.
7. Abdul Samad, son of Mohammad Suleman, through Sr. Selection Engineer (C & W), Varanasi.

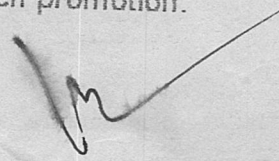
.....Respondents

(By Advocate: Shri P. Mathur)

ORDER.

By Mr. Justice Khem Karan, V.C.

The applicant has prayed that the respondents be directed to correct the seniority position of the applicant in the Fitter Grade I and to give him retrospective promotion to the Fitter Grade I from the date his juniors i.e. respondents No. 5 to 7 were given such promotion.

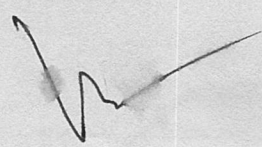


2. His case, in brief, is that he was initially appointed as Substitute Khalasi on 4.2.1970 under the control of TXRS and was subsequently screened alongwith other candidates and placed at Sl. No.29 on the panel on Carriage and Wagon (C & W) Khalasi for being absorbed as a regular Railway employee. Photocopy of the panel is Annexure A-1. He says that next promotion was to be done to the post of Semi-skilled Fitter (S.S. Fitter) after a trade test. He passed that test on 14.9.1978 but inspite of it, was not promoted to the post of S.S. Fitter, while juniors to him, namely Kailash, Shyam Narayan and Abdul Samad were promoted. He has alleged that he was promoted to the post of S.S. Fitter subsequently but was not assigned correct position in the gradation list. It is said that though he was subsequently promoted to the post of post of Fitter Grade II but was shown junior to respondents No. 5 to 7. His case is that further promotion from the Fitter Grade II to Fitter Grade I was to be made after certain suitability test, which he passed and was promoted on 22.6.1994 but his position in the seniority list remained below to his erstwhile juniors as mentioned above. He represented to the Authorities (copies of which are Annexure A-2 and Annexure-3) but nothing was done to his satisfaction, so he filed this O.A.

3. In their written reply, the respondents have taken a specific plea in para 10 that the cause of action arose as back as in August 1994 when the position of the applicant was shown below to the respondents No. 5, 6 and 7 in the seniority list of Fitter Grade I but he filed this O.A. after a period of four years, so this O.A. deserves to be dismissed on the ground of limitation.

4. Sri S.U Khan, learned counsel for the applicant tried to meet it by saying that the applicant continued giving representations to the Authorities concerned for rectifying the seniority list and for giving him promotion from the date his juniors were given such promotion, so the O.A can not be said to be barred by limitation.

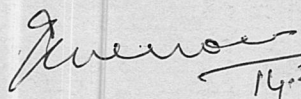
5. We are of the view that the period of limitation cannot be extended by non-statutory representations. It is never the contention of Shri S.U. Khan that the representations were under a particular statutory Rules or Regulations. We do not think that those



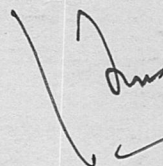
representations would enlarge the period of limitation, prescribed under section 21 of Administrative Tribunals Act 1985. In view of the settled legal position, if the O.A. is barred by time, the Tribunal has no jurisdiction to entertain and decide the same on merits. Though the requests of Shri Khan that the respondents may be asked to consider his representation is innocuous on the face of it, but as the O.A. is apparently time barred, we would not be justified in issuing any positive directions to the respondents to consider the case of the applicant but this will not preclude the respondents from considering the representations of the applicant of their own.

6. So the O.A. is dismissed on the point of limitation but with the observations made in the preceding paragraph.

No order as to costs.


14.3.07

Member-A


14.3.07

Vice-Chairman.

Manish/-