

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 6 of 1998

this the 26th day of August 2003.

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER (A)
HON'BLE MR. A.K. BHATNAGAR, MEMBER (J)

Yogendra Chandra Srivastava, S/o Sri Triveni Chandra Srivastava, working as Senior Clerk in CMD Office, N.E. Railway, Gorakhpur.

Applicant.

By Advocate : Sri B. Tewari.

Versus.

1. Union of India through the General Manager, N.E. Railway Gorakhpur.
2. Chief Personnel Officer, N.E. Railway, Gorakhpur.

Respondents.

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

ORDER

BY MAJ GEN K.K. SRIVASTAVA, MEMBER (A)

In this O.A. filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for the following reliefs:

"(i) To issue an order or direction commanding the respondents to give promotional benefit in scale of Rs.1200-2040/- as Senior Clerk w.e.f. 23.11.1981, Head Clerk in scale of Rs. 1400-2300/- with Rs.70/- Special pay w.e.f. 16.10.1992 and O.S. Gr.II in scale of Rs. 1600-2660/- w.e.f. 3.9.1997 with increment pay fixation, arrears of salary and with proper seniority.

(ii) To issue an order or direction setting aside the order dated 22.11.1988 by which the applicant had been assigned bottom seniority.

(iii) To issue an order or direction commanding the respondents to give first class passes attached with Head Clerk and O.S. Gr.II.

(iv) -----."

2. The facts of the case, in short, are that the applicant was appointed in the respondent's establishment on 10.7.1995 after completing apprentice in the scale of Rs.260-400/-. By order dated 4.2.1984, applicant was posted



in CME office. The applicant was again posted as Office Clerk vide order dated 22.11.1988. The applicant filed a representation dated 7.3.1989 before the Chief Personnel Officer that he had never requested his posting in CMO's office and, therefore, the question of putting bottom seniority to the applicant did not arise. The C.P.O., N.E. Railway, Gorakhpur, issued seniority list on 16.7.1990 in respect of Junior Clerks/Senior Clerks. The applicant filed a representation against the same, but the respondents ^{had not taken} any action. On 21.9.1993, the C.P.O. had again issued seniority list for the posts of Junior Clerks & Senior Clerks. The applicant filed a representation on 23.9.93. The applicant made further representations about his seniority on 28.2.97 and 24.11.97. The respondents have not passed any order on the representations made by the applicant. The applicant, aggrieved by the same, ^{and} filed this O.A. which has been contested by the respondents.

3. The applicant's counsel inviting our attention to para 14 of the Counter reply ^{and} submitted that the respondents have stated that they have not received the representations of the applicant dated 28.2.97 and 24.11.97, whereas perusal of Annexure RA-1 which is a photostat copy of the applicant's representation dated 24.11.97, there are two remarks of the office of the respondents dated 24.11.97 on the same. Therefore, the stand taken by the respondents in Counter reply that they have not received the representation of the applicant dated 24.11.97 is un-founded and incorrect.

4. The counsel for the respondents submitted that the application is highly time barred as the seniority list of 1993 has been challenged in this O.A.

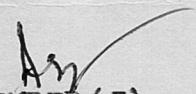
5. We have heard counsel for the parties and have perused the record.

6. Perusal of Annexure RA-1 with the Rejoinder leaves no

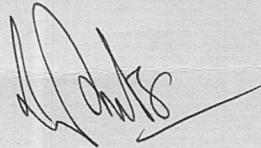
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doubt in our mind that the applicant's representation dated 24.11.97 was received in the office of the respondent no.2. The respondent no.2 ought to have decided the issue once for all, which has not been done. In our opinion, the interest of justice shall better be served if the representation of the applicant dated 24.11.97 is decided by the respondent no.2 by a reasoned and speaking order within a specified time.

7. In the facts and circumstances of the case, O.A. is finally disposed of with a direction to the respondent no.2 to decide the pending representation of the applicant dated 24.11.97 (Annexure RA-1) by a reasoned and speaking order within a period of 3 months from the date of communication of this order. NO costs.



MEMBER (J)



MEMBER (A)

GIRISH/-