

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 28th day of January 2004.

Original Application no. 649 of 1998.

Hon'ble Maj Gen K.K. Srivastava, Member-A
Hon'ble Mr. A.K. Phatnagar, Member-J

1. N.C. Mandal,
S/o Sri B.M. Mandal,
R/o H. No. 6, Shri Pampuram,
Mohaddipur, Gorakhpur
working as Chief Draftsman in Dy. C.E. (Con),
Gorakhpur.
2. A.K. Pandey, S/o Sri Sita Ram,
R/o H. No. 132-B, Railway Diary Colony,
Gorakhpur, working as Chief Draftsman in C.E.
Drawing Office, Bridge, N.E. Rly.,
Gorakhpur.

... Applicants

By Adv : Sri B. Tiwari

V E R S U S

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

... Respondents

By Adv : Km. Sadhna Srivastava

O R D E R

Hon'ble Maj Gen K.K. Srivastava, AM.

In this OA, filed under Section 19 of the A.T. Act, 1985, the applicants have prayed for quashing the impugned orders dated 21.5.1993 (Ann A1), 4.10.1995 (Ann A2) and 26.3.1998 (Ann A3) with direction to the respondents to give promotional benefit in the pay scale of Rs. 1600-2660

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as Head Draftsman in pursuance of Railway Board's letter dated 16.11.1986 and promotional benefit may be given w.e.f. 20.10.1986 with proforma fixation effective from 01.01.1984. The applicant has sought for further direction to the respondents to give promotion in the pay scale of Rs. 2000-3200 as Chief Draftsman w.e.f. 01.01.1989 with seniority, arrears of pay and other allowances admissible under the Service Rules with 18% interest.

2. The facts of the case, in short, are that the applicants were recruited for the post of Draftsman, in the respondent's establishment, in the pay scale of Rs. 425-700 by Railway Service Commission, Muzaffarpur on 20.09.1983. The applicant no. 1 joined on 22.2.1984 and applicant no. 2 on 24.2.1984 at different places. One Sri Gajendra Nath was also recruited for the same post. The grievance of the applicants is that ^{whereas} Sri Gajendra Nath was promoted on 20.10.1986 under the re-structuring scheme dated 16.11.1984 as Head Draftsman in the pay scale of Rs. 550-750 and was given proforma fixation w.e.f. 1.1.1984, the applicants were ignored and were not given benefit of restructuring. The applicants were promoted as Head Draftsman in the pay scale of Rs. 550-750 on 7.11.1988. Sri G. Nath was again promoted as Chief Draftsman on 1.1.1989 in the pay scale of Rs. 2000-3200, whereas the applicants were promoted as Chief Draftsman on 19.1.1994 in pursuance of the Railway Board's letter dated 27.1.1993 (Ann A6). The applicants filed representation before Chief Personnel Officer (in short CPO) on 11.9.1995. By letter dated

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7.6.1996, General Manager (P) issued Seniority List of persons in the pay scale of Rs. 1400-2300. The applicants represented on 7.10.1997 which has been rejected by the impugned order dated 26.3.1998 (Ann A3). Hence, this OA which has been contested by the respondents by filing counter affidavit.

3. Heard Sri B. Tiwari, learned counsel for the applicant and Km. Sadhna Srivastava, learned counsel for the respondents, considered their submissions and perused records.

4. In the present OA the applicants are claiming promotion as Head Draftsman w.e.f. 20.10.1986 with proforma fixation effective from 1.1.1984 under restructuring scheme vide Railway Board's letter dated 16.11.1984, on promotion of Sri G. Nath. The applicants represented the matter on 12.3.1993 on the ground that Sri G Nath was junior to them. However, the representation of applicant no. 2 was rejected vide order dated 19/21.5.1993 (Ann A1). On perusal of impugned order dated 4/9.10.1995 (Ann A2) we find that applicant no. 2 raised the issue by filing ^{earlier} representations dated 19.7.1995 & 11.9.1995 claiming for promotion under restructuring and representations of the applicant no. 2 were rejected by order dated 4/9.10.1995. Therefore, the cause of action to the applicants arose on 9.10.1995. Obviously, once the representation was rejected by impugned order dated 4/9.10.1995 the applicants became junior to Sri G Nath who was promoted as Head Draftsman on 20.10.1986 and was given the benefit of restructuring.

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5. In view of the above facts, Sri G. Nath was obviously promoted as Chief Draftsman w.e.f. 1.1.1989 i.e. much earlier than the applicants who were promoted on 19.1.1994.

6. It is thus clear that for the first time the cause of action to the applicants arose on 20.10.1986 when Sri G Nath was promoted as Head Draftsman and again the second time the cause of action arose on 1.1.1989 when Sri G Nath was promoted as Chief Draftsman. Thus for the purpose of limitation if we ignore the date of first promotion of Sri G Nath i.e. 20.10.1986 certainly the limitation started running w.e.f. 1.1.1986 when Sri G Nath was promoted as Chief Draftsman. The applicant cannot take plea that the limitation started running from 26.3.1998, when the representation of applicant no. 2 dated 7.10.1997 regarding seniority over Sri G. Nath was rejected.

7. This OA has been filed on 2.6.1998 i.e. after more than 9 years. Taking into consideration the cause of action as 1.1.1989, we would like to observe that filing representations on issue of seniority list dated 7.6.1996 (Ann A8) would not arrest the running of the period of limitation which started on 1.1.1989. Even otherwise the OA is liable to be rejected on the ground of nonjoinder of the necessary party because the applicants have challenged the promotion of Sri G Nath to the post of Head Draftsman and Chief Draftsman

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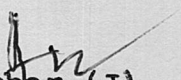


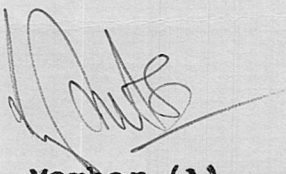
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without impleading him in the array of the respondents.

8. In the facts and circumstances and the reasons stated above the OA is grossly time barred and is liable to be rejected. The OA is accordingly dismissed as grossly time barred under Section 21 of the A.T. Act, 1985 and also ^{for} nonjoinder of the necessary party.

9. There shall be no order as to costs.


Member (J)


Member (A)

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