

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 26th day of MARCH 2004.

Original Application no. 307 of 2004.

Hon'ble Mr. A.K. Bhatnagar, Member-J.

Dilip Kumar Srivastava, s/o Sri Lalji Lal Srivastava,  
R/o Andhiyari Bag,  
Gorakhpur.

... Applicant

By Adv : Sri R.K. Dubey

V E R S U S

1. Union of India, through its General Manager,  
N.E. Rly., Gorakhpur.
2. Divisional Railway Manager,  
N.E. Rly., Lucknow Division,  
Lucknow.
3. Divisional Mechanical Engineer,  
(L&W) N.E. Railway Lucknow.
4. Divisional Superintendent, N.E.Rly.,  
Lucknow.
5. The Chief Mechanical Engineer, N.E. Rly.,  
Gorakhpur.

... Respondents

By Adv : Sri K.P. Singh

O R D E R

A.K. Bhatnagar, JM.

By this OA, filed under Section 19 of the A.T. Act,  
1985, the applicant has prayed for quashing the order of removal dated 14.08.1975 re-appointment dated 17.1.1976 (Ann 1 & 2). He has further sought direction to restore the applicant's service since the date of his initial

appointment dated 17.01.1976. He has further sought direction to respondents to give proper seniority and due promotion to the applicant calculating his service since the date of his initial appointment.

2. The facts of the case, as per applicant is that, he was appointed as substitute Khalasi, N.E. Rly., Kanpur (now Anwar Ganj) on 26.11.1973. He was given posting on the post of Permanent Khalasi after screening and medical test in Category B-1. The applicant was removed from service on the charge of unauthorised absence by DME/C&W N.E. Railway, LKN JN vide letter no. E/11/Maike|DKS/PC dated 14.8.1975. He filed appeal before Divisional Supdt. N.E. Rly., Lkn. against removal order followed by reminder dated 05.12.1975. He was again reappointed as substitute Khalasi vide letter dated 17.1.1976 (Ann A2). The grievance of the applicant is that his appeal filed against removal is pending since then and no action has been taken by the respondents. The applicant made several representations for deciding the same, but no action has been taken by the respondents. Hence this OA.

3. Learned counsel for the applicant submitted that the action of the respondents in passing removal order dated 14.8.1975 is wholly illegal, arbitrary and violative of principle of natural justice. Learned counsel for the applicant further submitted that the applicant has been removed without following proper procedure laid down in law as no enquiry has been conducted by the department. It is also submitted that by re-appointing the applicant on 17.1.1976 the respondents have caused great injustice to the applicant as the applicant suffered loss of seniority

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from his juniors, who were appointed in 1975.

4. Learned counsel for the respondents raised preliminary objection at this stage that the OA is highly time barred as it has been filed after 28 years from the date when the cause of action arose in this case. I do not consider it necessary to call for counter affidavit, as this case can be decided at the admission stage itself on the point of limitation only.

5. Heard learned counsel for the parties considered their submission and perused record available.

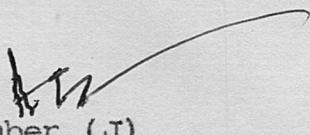
6. Admittedly, the impugned removal order (Ann 1) was passed on 14.08.1975 which was duly received by the applicant on 25.08.1975. I have also gone through annexure 2 dated 17.1.1976 by which the applicant was re-engaged as a substitute Diesel Khalasi purely on local arrangement. I have also perused annexure 8 dated 26.8.2003, letter issued from office of DRM (P) Lucknow addressed to Assistant Labour Commissioner (Central) Lucknow, stating that the applicant was working as substitute at the time of removal and he has been re-engaged as a substitute on his appeal on 17.1.1976 which itself contradict the argument of learned counsel for the applicant that the appeal of the applicant is still pending and has not been decided so far. I am not inclined to accept the argument of learned counsel for the applicant that he has been sending representations continuously since his removal from service.

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The law is well settled in this regard that repeated representations do not cover the period of limitation as provided under Section 24 of A.T. Act, 1985. The applicant has filed this OA on 15.03.2004 i.e. after a lapse of about 28 years and the OA is liable to be dismissed on this ground alone. The OA is accordingly dismissed as time barred.

7. There shall be no order as to costs.



Member (J)

/pc/