

Open Court
CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.556 of 2004.

ALLAHABAD THIS 24TH DAY OF OCTOBER, 2005

HON'BLE MR. A.K. BHATNAGAR, J.M
HON'BLE MR. D.R TIWARI, A.M

Vinod Kumar Mishra a/a 34 years son of Rameshwar Dayal Mishra, resident of Mohalla- Jai Jai Ram, Ram Bali Yadav Colony, Kasganj, District Etah.

.....Applicant.

(By Advocate : Sri H.M. Srivastava/
Sri N. Srivastava)

Versus.

1. Union of India through the General Manager, East Central Railway, Hazipur (Bihar).
2. General Manager, East Central Railway, Hazipur (Bihar).
3. Divisional Railway Manager, Eastern Central Railway, Samastipur (Bihar).

.....Respondents.

(By Advocate: Sri K.P. Singh)

O R D E R

By HON'BLE MR. D.R TIWARI, A.M

By this O.A. filed under section 19 of the A.T. Act, 1985, the applicant has prayed for quashing the order dated 23.3.2004 passed by respondent NO.3 (Annexure No.1). He has further prayed for issuance of direction to the respondents to produce service record, service book of Loyal Railway employees along with the prayer to provide employment to the applicant as per his educational qualification.

2. Briefly stated, the facts of the case, as stated by the applicant, are that the father of the applicant was Mukhya Gadi Lipik posted at Railway Station Samastipur. His father continued to discharge his normal duty during the general strike in the Railways between 8.5.74 to 28.5.75. It has been pleaded that after the strike in accordance with the agreement between the Railways Union and Railway Administration, a scheme was lunched to provide employment to the dependent of Railway employees. The applicant, the son of Sri Rameshwar Dayal, who discharged his duties

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during the General Strike of the Railways in 1974 requested the Railway Administration for providing employment in accordance with the aforesaid scheme. He made many representation but to no avail. Finally he approached this Tribunal by filing O.A. No. 25 of 2004 which was decided by order dated 2.1.2004 and the O.A. was disposed of with a direction to Divisional Railway Manager, Eastern Railway, Samastipur (Bihar) to decide the representation of the applicant within a period of three months from the date of receipt of a copy of the order by a reasoned and speaking order under intimation to the applicant.

3. By the impugned order, the Competent Authority decided the representation of the applicant by a reasoned order rejecting the representation. The applicant has challenged this order by filing the instant O.A on various ground mentioned in para 5 of the O.A. and has argued that the contention of the respondents that the father of the applicant was not a loyal Railway employee is incorrect and have demanded for production of the Railway Record of that time. The order passed is not a detailed and speaking order as such he has prayed for allowing the O.A. on merit.

4. The respondents, on the other hand, have resisted the O.A. and filed a counter affidavit. It has been argued that as per paragraph 2 (Annexure A-1 of the O.A.) it is submitted that the father of the applicant was in periodical medical examination w.e.f 9.4.1974 to 5.6.1974, the question of his contribution and discharging his duties during the period of General Railway Strike does not arise. It has been argued that the Railway strike continued from 8.5.1974 to 28.5.1974. The Railway administration treated that Railway Strike illegal, in the meantime Railway Administration declared those employees who had discharged the duties during the course of strike period, they were declared as loyal workers and awarded with either special increment or their wards were given a Railway job as per their qualification and suitability. The said scheme was abolished on

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30.4.1976. It has also been asserted that there has been inordinate delay in the instant case, the question of employment in railway services on the basis of loyal quota does not arise. Hence, it has been argued that the OA be dismissed being devoid of any merit.

5. During the course of the argument, the counsel for the applicant reiterated the facts and the legal pleas mentioned in the O.A. of the applicant. The learned counsel for the respondents hotly contested the claim of the applicant's counsel and submitted that as per records, since he was on periodical medical examination during the general strike period, he cannot be treated as a loyal railway employee. He has also submitted that it is grossly barred by limitation. In support of delay, he has relied on the following judgments of the Apex Court as well as the Coordinate Bench of this Tribunal:-

- (i) **Ramesh Chandra Sharma Vs. Udhamp Singh Kamal- 2000 S.C.C (L&S) 53.**
- (ii) **Bhoop Singh Vs. Union of India- A.I.R 1992 S.C.C 1414 and**
- (iii) **Dhurendra Prasad Gupta Vs. Union of India decided by this Tribunal on 18.11.2002 in O.A. No.1078 of 2002.**

The facts of the case in Ramesh Chandra Sharma (supra) and Bhoop Singh (Supra) are regarding the inordinate delay and the Apex Court was pleased to reject the request of the petitioners as being barred by limitation. In this case also, submitted the counsel for the respondents, that it is equally barred by limitation. In view of these submissions, he has concluded that the O.A be dismissed.

6. We have heard counsel for the parties very carefully and given anxious consideration to the rival submissions of the parties. We have gone through the pleadings and Annexures on record.

7. From what has been stated above, the only issue which requires adjudication is the validity of the



impugned order. The contentions of the respondents made in their counter affidavit cannot be questioned and we do not feel it necessary to call for records relating to the year 1974 as demanded by the applicant. Apart from that the question of limitation raised by the counsel for the respondents is in accordance with the settled legal position. The decisions in the case of Ramesh Chandra Sharma (supra) and Bhoop Singh (supra) have settled the legal position on the question of limitation. In addition to this, the case of Dhurendra Prasad Gupta (supra) is binding for us so the O.A. fails on the grounds of limitation as well as on the ground of merit and is liable to be dismissed.

8. In view of the facts and circumstances mentioned above and the discussion made, the O.A. is devoid of merit and is accordingly dismissed. There is no ground to quash the impugned order which has been validly passed by the respondents. Costs easy.


Member-A
Member-J

Manish/-