

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 19th day of August, 2004.

Original Application No. 895 of 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.

Hon'ble Mr. S.C. Chauhan, Member- A.

Yogesh Chandra Yadav S/o Sri Babban Yadav
R/o Turkmanpur, Distt. Gorakhpur.

.....Applicant

Counsel for the applicant :- Sri B. Tewari

V E R S U S

1. Union of India through the General Manager,
N.E. Railway, Gorakhpur.
2. Chief Personnel Officer, N.E. Railway,
Gorakhpur.
3. Deputy Controller of Stores (Depot),
N.E. Railway, Gorakhpur.
4. Assistant Personnel Officer (Depot),
N.E. Railway Press, Gorakhpur.

.....Respondents

Counsel for the respondents :- Sri K.P. Singh

O R D E R

By Hon'ble Mr. Justice S.R. Singh, VC.

The applicant herein seeks issuance of a direction to the respondents to give him promotional benefit in the scale of Rs. 1600-2660 w.e.f 01.03.1993. Arrears of pay [✓] increments and other allowances permissible under law have also been prayed for after setting aside the impugned orders dated 04.10.2001 and 08.01.1999 issued by the Assistant Personnel Officer (Depot), NE Railway, Gorakhpur. The application, as per office report, is

(Signature)

highly belated and counsel for the applicant has filed an application seeking condonation of delay. It has been submitted by the counsel for the applicant that the explanation given in the affidavit filed in support of the delay condonation application is sufficient and the Tribunal ought not to dismiss the O.A as barred by time. The respondents' counsel on the other hand has submitted that earlier also the applicant had instituted the O.A No. 1300/02 which was dismissed as barred by limitation vide order dated 26.02.2004. The copy of the order dated 26.02.2004 has been annexed as annexure- 15.

2. In our opinion, the present O.A is not maintainable being barred by principle of constructive res-judicata. Mere fact that earlier the O.A was dismissed as barred by time due to the reason that no application for condonation of delay was filed ~~so that by it was no~~ ^{itself} ~~is no~~ ^{itself} ground to condone the delay in the present case. The judgments in Bharti Ray Chaudhary vs. U.O.I & ors. 1974 SCC (L&S) 73 and Hira Lal Yadav vs. U.O.I & Ors ATR 1987 (1) CTA 420 relied on by the learned counsel for the applicant have no application to the facts of the present case.

3. Accordingly the O.A is dismissed as barred by principle of constructive res-judicata. No costs.


Member- A.


Vice-Chairman.

/Anand/