

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 3rd DAY OF **October** 2009)

Hon'ble Mr. A.K. Gaur, Member (J)

Hon'ble Mr. D.C. Lakha Member (A)

Original Application No.1168 of 2005

(U/S 19, Administrative Tribunal Act, 1985)

1. R.P.Kaushal, aged about 53 years, Son of Late Shri R.D. Ram, working as Senior Personnel Officer, North Eastern Railway, Gorakhpur, Office of General Manager(P) North Eastern Railway, Gorakhpur.
2. Shri Amiya Raman, Aged about 50 year, Son of Shri S.N. Karn working as Senior Personnel Officer, at present put to work as Senior Enquiry Officer North Eastern Railway, Gorakhpur in the office of the General Manager (Vigilance), North Eastern Railway, Gorakhpur.

..... Applicants

Versus

1. Union of India through General Manager (P), North Eastern Railway, Gorakhpur.
2. The Chief Personnel Officer, North Eastern Railway, Gorakhpur.

..... Respondents

Present for Applicant : Shri Rakesh Verma

Present for Respondents : Shri S.K. Anwar

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, J.M.)

We have heard Sri Rakesh Verma, learned counsel for the applicant and Sri S.K. Anwar, learned counsel for the respondents.

2. Learned counsel for the respondents has raised preliminary objection that this Original Application is inordinately time barred and for which no reasonable and plausible explanation has been offered. Learned counsel for

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the respondents would contend that the applicants under the garb of order dated 28.01.2005, the applicant has filed the aforesaid Original Application for preponing the matter of promotion.

3. Learned counsel for the applicant stated that actually the promotion was held in the year, 1993. Assuming though not admitting that the cause of action arose in the year 1993, still the applicant has approached this Tribunal after the lapse of more than 12 years i.e. 22.03.1995. The applicant has challenged the seniority list dated 22.03.1995,

4. Learned counsel for the respondents invited our attention to the decision rendered by Hon'ble Supreme Court reported in *1976 SCC (L&S) 115 Malcom Lawrence Cecil D' Souza Vs. Union of India and Ors.* in order to buttress the contention that seniority list cannot be challenged after a long lapse of time. Learned counsel for the respondents would contend that in view of the decision reported in *2006 SCC (L&S) 11056 HKP Sudhakaran Vs. State of Kerla*, the applicant whose seniority was wrongly fixed long ago, the matter cannot be unsettled after such a long time, therefore the applicant is not entitled to claim the benefit of seniority after such an inordinate delay.

5. In the last, we may observe that Hon'ble Supreme Court in its latest decision reported in *2008 (7) Supreme 331 C. Jacob Vs. Director of Geology & Mining* have clearly held that "*Every representation to the Government*

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for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. In regard to representation unrelated to the Department, the reply may be only to inform that the matter did not concern the Department or to inform the appropriate Department. Representation with incomplete particulars may be replied by seeking relevant particulars. The replies to such representations, cannot create a fresh cause of action or revive a stale or dead claim."

6. We have given our thoughtful consideration to the preliminary objection raised by the learned counsel for the respondents and we are fully in agreement with the same. The preliminary objection is accordingly sustained in law, the O.A. is dismissed on the ground of delay and laches.


Member-A


Member-J

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