

(RESERVED)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

(THIS THE 4th DAY OF Feb, 2012)

PRESENT:

HON'BLE MR. D. C. LAKHA, MEMBER-A

HON'BLE MR. SANJEEV KAUSHIK, MEMBER-J

ORIGINAL APPLICATION NO. 809 OF 2005

(U/s, 19 Administrative Tribunal Act. 1985)

Asha Pandey aged about 45 years D/o Shri J.P. Pandey resident of
336 Sadar Bazar, Jhansi.

.....Applicant

By Advocate: Shri R.K. Nigam.

Versus

1. Union of India through General Manager, North Central Railway,
Allahabad.
2. Chief Personnel Officer, General Manager's Office, North
Central Railway, Allahabad.

..... Respondents

By Advocate: Shri P. Mathur.

ORDER

(DELIVERED BY:- HON'BLE MR. D.C. LAKHA, MEMBER-A)

The instant OA has been instituted under Section 21 of the Central
Administrative Tribunal Act, 1985 for the following reliefs:-

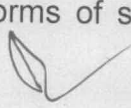
"(i) to issue a writ, order of direction in the nature of MANDAMUS thereby commanding the Respondents to immediately issue appointment letter in Class III Ministerial category in respect of the humble petitioner in any Unit in North Central Railway for which a time bound direction is solicited;

(ii) to issue any other suitable order in favour of the humble petitioner as deemed fit by this Hon'ble Tribunal in the facts and circumstances of the case."



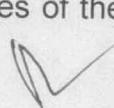
2. The facts of the case of the applicant succinctly put as under:-

The applicant was one of the candidates for examination for which the notification No. 2/81 (category No. 25 Popular category) was issued for Class III Ministerial cadre post to be recruited. The notification was issued by Railway Recruitment Board, Bombay, in the year 1980-1981. The applicant appeared in the test on 21.06.1981 and was declared successful and was called for viva-voce to be held at Agra Cantt and was declared successful even in the viva-voce. During the course of Recruitment process certain alleged irregularities came to light with respect to the process of selection in which certain Senior Railway Officers were also allegedly found involved. Hence, the process of selection was held in abeyance and the matter was under inquiry by the CBI. However, the panel of the selected candidates was being operated with respect to candidates who were not involved in fraudulent or foul means. Some of the candidates including the applicant were called upon to present themselves for screening for the purpose of authentication of various documents at Bhopal. The copy of the call letter dated 27.05.1987 is appended as Annexure A-III. A large number of other candidates, after that, were cleared for appointment after screening at Bhopal. The petitioner approached the Chief Personnel Officer, Central Railway, Bombay and was apprised of the fact that on account of divergent opinion held by various High Courts or Tribunals in the pending matters in respect of proceedings of this selection the candidature of the applicant was being held in abeyance till further orders. Later on it was known that the matter was submitted to the Hon'ble Supreme Court for final judicial review. The applicant has been in constant touch by making various representations, the last being of dated 18.11.2004 (Annexure A-IV). It later on transpired from the office of Chief Personnel Officer, Central Railway Bombay that as per matter of routine procedure the forms of selected candidates which

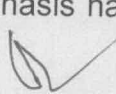


were originally sent to Central Railway, Bombay were transmitted to the New Zonal Headquarters i.e. North Central Railway (N.C.R.) Allahabad and the appointment orders were then required to be issued by the Divisional head of the respective division i.e. D.R.M., Jhansi (under N.C.R.). It has also been stated in the O.A. that the Delay in filing the O.A. has occurred obviously on account of CBI/Vigilance inquiry proceedings in the matter. Thereafter, quite a large number of candidates were found to be innocent who were not involved in any fraudulent or foul means and they were directed to appear for screening at Bhopal and their forms were sent to the Zonal Head of the Central Railway and because of creation of the new zone, were sent to North Central Railway, Allahabad dated 01.04.2003. The appointment of many other candidates has been cleared by CPO and they have been duly posted in various units. Since the applicant was apprised that her case was subjudice in Supreme Court, therefore, she should wait for final outcome of the Supreme Court's decision. So the delay has not occurred due to inaction of the applicant and the same is attributable to the fact that the matter was under consideration in the office even after the CBI/Vigilance inquiry. Therefore, the submission has been made to seek appointment in favour of the applicant like the other similarly placed persons selected through the same test/viva-voce.

3. On notice short written statement (on preliminary objections) and supplementary written statement have been filed on behalf of the respondents. The stands taken by the respondents on the preliminary objection is that the matter pertains to 1981-1987 and hence hopelessly time barred as provided under Section 21 of the AT Act, 1985. The applicant has raised vague allegations by saying that representation from time to time has been sent but the copies of the said representations are




not annexed. Even the mode of sending the alleged representation has not been disclosed in support of his contention. The respondents have relied upon the Judgments of the Hon'ble Supreme Court reported in **[1994 (26) ATC page 228] in Ratan Chandra Sammanta and others Vs. Union of India and others** in which it has been held that by delay not only the remedy is lost but the right itself is lost. The similar view has been taken by Hon'ble Supreme Court in case of **Bhoop Singh Vs. Union of India reported in A.I.R. 1992 SC 1414** wherein it has been held that by inordinate delay (as it is instant case) the matter cannot be entertained by the Courts. The other cases referred to by the respondents are **Ramesh Chand Sharma Vs. Udham Singh Kamal and Others [2000 Supreme Court Cases (L&S) 53]** in which it was held that the Tribunal has no jurisdiction to entertain and decide on merits a petition which is time barred. It has also contended in the written statement by the respondents that the cause of action, if any, admittedly arose within the territorial jurisdiction of Central Administrative Tribunal, Mumbai. North Central Railway, (N.C.R.) Allahabad was created as a new zone on 01.04.2003 and thus it is not at all concerned with the present case. These preliminary objections indicate that the OA is not maintainable. It is, therefore, desirable that the issue of maintainability should be decided at the very threshold as held by the Hon'ble Supreme Court in several cases like **National Highway Authority Vs. Ganga Enterprises, reported in 2003 (7) SCC Page 410**. In the supplementary written statement the respondents have submitted that on checking the records it has been revealed that the relevant papers regarding recruitment of *Asha Pandey* has not been received in the Head Quarter of N.C.R., Allahabad, either from Central Railway or from Railway Recruitment Board Bhopal. A true photo copy of internal correspondence dated 01.09.2005 is filed as Annexure SCA-I. On this basis emphasis has been laid on the point that



the cause of action wholly or partly has not arisen within the territorial limits of Central Administrative Tribunal, Allahabad.


4. We have heard learned counsel for both the parties and have also gone through their pleadings including the Judgments of Hon'ble Supreme Court and the order of Central Administrative Tribunal relied upon by both the counsels in support of the averments and contentions made in their pleadings. The learned counsel for the applicant has placed reliance on the order of the Chandigarh Bench Tribunal in case of **Savita Rani and others Vs. Union Territory, Chandigarh and others [2003 (2) SLJ (CAT) 124]** in which it has been held that the Government should give the benefit of a final decision to all similarly placed persons and should not unnecessarily send the people to Court..... when the benefit of earlier Judgment is prayed for by similarly placed persons, the bar of limitation would not be attracted. Learned counsel for the applicant has also placed reliance of the Judgment of **K.C. Sharma and others Vs. Union of India and others [1998 (1) SLJ 54]** wherein it has been held that where the applicant sought benefits of the decision by filing the OA, the application should not be dismissed as barred by limitation. It has also been submitted by the learned counsel for the applicant that the delay in this matter occurred not because of the fault of the applicant who has been pursuing the matter by filing the representations. The matter was under Vigilance inquiry and on completion of the inquiry a large number of other candidates were cleared for appointment. The case of the applicant is like that of the similarly placed persons. Learned counsel for the respondents, in support of the preliminary objections, has drawn our attention again to various Judgments of the Hon'ble Supreme Courts, as mentioned above while stating the case of the respondents with respect to the short written statement and supplementary written statement. The main ploy in the



submission of the respondents is that the case is highly time barred as it pertains to 1981 and 1987. The Vigilance inquiry etc. was completed in 1991. There is no evidence about the matters being pursued by the applicant at any level. It is only in 2005 that the O.A. has been filed without explaining long spell of delay. While re-emphasizing the point of inordinate delay the law laid down by the Hon'ble Supreme Court in the following Judgments has been relied upon:-

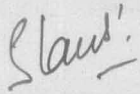
- "(a). Ratan Chand Samanta Vs. Union of India and others (Supra)**
- (b). Bhoop Singh Vs. Union of India reported in A.I.R. 1992 (Supra)**
- (c). Ramesh Chand Sharma Vs. Udham Singh Kamal and others [2000 Supreme Court Cases (L&S) 53] (Supra)"**


5. The learned counsel for the respondents has also submitted that the averments of the applicant about the similarly placed persons to get the claim in this OA is also without any justification as the applicant has given no name or names of the similarly circumstanced persons. In the absence of any example it is only a bald claim made on behalf of the applicant. Another contention of the respondents is that NCR, Allahabad was created on 01.04.2003 whereas the matter of issuing alleged notification for recruitment by the Central Railway, Bombay was of the year 1981. The Railway Recruitment Board, Bhopal (under the Central Railway) was the concerned Recruiting agency. Since, N.C.R., Allahabad came into being only in 2003 it has nothing to do with the instant case as the papers regarding the applicant or pertaining to the impugned examination etc. have not been received in the office of N.C.R., Allahabad. On this ground this matter does not fall within the jurisdiction of Central Administrative Tribunal, Allahabad Bench.



6. We have given anxious and thoughtful consideration to the averments, contentions and arguments of both the counsels and have also taken in view the case law relied upon by them. As per above narration, we find that the matter is highly time barred and in view of the settled law of the land a person who is sleeping about his and her right the matter becomes stale in due to course of time without being pursued and cannot be entertained for relief. The stale matter cannot be reviewed. The inordinate delay has not been properly explained. In the absence of any name or names of similarly placed persons, the arguments on behalf of the applicant, that the benefit given to other similarly placed persons be also given to the applicant, does not hold good.

7. In view of the above analysis we observe that the O.A. is devoid of any merit. Hence dismissed. No order as to costs.


MEMBER (J)


MEMBER (A)

/S.V./