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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALAHAABAD  
ADDITIONAL BENCH AT ALAHAABAD

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Allahabad : Dated this 15th day of March 1996

Original Application No. 397 of 1986

DISTRICT: JHANSI

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

1. Smt. Savitri Devi Sharma  
Widow of Late Shri K.D. Sharma.
2. Smt. Lokeshwar Sharma  
D/o Shri K.D. Sharma
3. Shri Ghanshyam Dutt Sharma  
S/o Shri K.D. Sharma
4. Shri Rakesh Sharma  
S/o Shri K.D. Sharma
5. Smt. Khemvati Sharma  
W/o Shri B.K. Sharma
6. Shri Dinesh Sharma.  
R/o 64, Manoharpura -Nagra,  
Jhansi.

(By Sri ~~SK~~ SK Srivastava, &  
Sri HP Chakrawarti, Advocates)

. . . . . Applicants

Versus

The Union of India and through  
The General Manager,  
Central Railways  
Bombay V.T.

(By Sri A.V. Srivastava, Advocate)

..... Respondents



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By Hon'ble Mr. S. Das Gupta, A.M.

The relief initially sought for by the applicant in this OA filed under Section 19 of the Administrative Tribunals Act, 1985 was a declaration that ~~the~~ <sup>the</sup> order dated 7-9-1982 reverting the applicant was null and void entitling him to all emoluments and other benefits of the higher grade. Subsequently by way of an amendment to the relief clause, he also sought a direction to release the promotional benefits including difference of arrears retrospectively with effect from the date of promotion of his juniors as Class II Officers.

2. According to the applicant, he joined the railway as a Clerk on 13-6-1943. After successive ~~leaves~~ <sup>h.</sup> and promotions he rose to the post of CTE in 1979. This post belongs to Class III category. Induction to class II cadre was to be made partly by limited departmental examination and partly by promotion on the basis of seniority-cum-selection. The applicant had fulfilled all the eligibility criteria for promotion to the Class II cadre in 1961 itself. However, in supersession of his claim his junior counter-parts were allowed to be promoted in 1966, 1967, 1968, 1969 and 1970 and also thereafter till 1982. He was, however, finally promoted by an order dated 10-6-1982 (Annexure-A-1). He had requested for a transfer from Bombay to Jhansi but instead of taking any action on this ~~advice~~ request the respondents reverted him by the impugned order dated 07-9-1982 (Annexure-A-3). The applicant stated that this order came to his knowledge only on 15-3-1983. He thereafter made several

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representations in vain. Hence, this application.

3. The respondents have filed a written reply in which it has been contended that the applicant was allowed to officiate on a Class II post by the order dated 10-6-1982. This was an adhoc promotion. Thereafter, w.e.f. 25-6-1982, he was granted six days casual leave. This was extended by him upto 4-7-1982. He resumed duty on 5-7-1982 but again applied for leave from 12-2-1982. This was not sanctioned. Whereupon, he reported sick under Medical Officer Kalyan from 12-7-1982 and the period of sickness was indicated as 2 to 3 weeks. During this period he left headquarters at Bombay without seeking prior sanction. The respondents claimed that during the short spell of working on adhoc basis on the higher post, the applicant's performance was unsatisfactory and he was not taking interest in his work despite personal interest. Even a written warning was issued to the applicant in July, 1982 but as he did not show any improvement, the adhoc promotion was cancelled by the competent authority and he was reverted to his substantive post w.e.f. 7-9-1982. The respondents have further asserted that the applicant was never superseded by his juniors.

4. We have heard learned counsel for both the parties and perused the record carefully.

5. So far as the relief relating to his reversion from the Class II post is concerned, the cause of action ~~immediately~~ arose on 7-9-1982 when the order of reversion was passed. Even allowing for

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a representation to<sup>be</sup> made by the applicant, this application which was filed on 11-8-1986 is wholly time barred. The applicant had actually retired from service on 30-6-1983. There is no explanation ~~that~~ why the applicant waited till August, 1986 before filing the application. Thus, the relief sought for in this regard ~~is~~ time barred and can be rejected on that ground alone.

6. Even on merit, the relief~~s~~ prayed for is not tenable. It is clear from the order of his promotion that his promotion to the Class II post was on adhoc basis. It is not the case of the applicant that he was properly selected for promotion to that post. That being so he had no right to continue indefinitely on the higher post. It is the case of the respondents that the applicant's performance was wholly unsatisfactory and, therefore, his adhoc promotion was cancelled. Although the applicant has denied this ~~application~~ in his rejoinder affidavit, we see no reasons to disbelieve the respondents that the cancellation of the promotion was occasioned by the applicant's unsatisfactory performance. In any case, the impugned reversion having taken place as far back as 7-9-1983, the cause of action has become stale by ~~which~~ <sup>the</sup> time the application was filed.

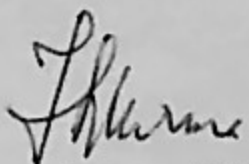
7. So far as the second relief i.e. the promotion from the day his juniors were promoted, is concerned, the applicant has made bald averments that a number of his juniors were promoted in supersession of his

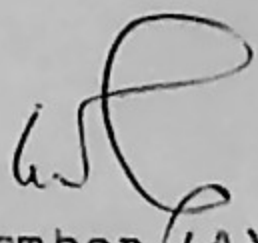
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claim from 1966 till 1982, <sup>Neelken</sup> ~~not~~ any order of promotion of such juniors nor any seniority list which would indicate that such persons were junior to the applicant, have been annexed. The respondents on the other hand, have specifically controverted this assertion of the applicant that any of his junior was promoted. In view of this the applicant has failed to make any case for relief in this regard.

8. In view of the foregoing, we find that the application has no merit and is dismissed accordingly. The party, shall, however, bear their own costs.

  
Member (J)

  
Member (A)

Dube/