

Central Administrative Tribunal, Allahabad.

Registration T.A.No. 497 of 1986 (Original Suit No.338 of 1986)

Gaya Ram

....

Applicant

Vs.

Union of India

...

Respondent

Hon.P.S.Habeeb Mohd., AM
Hon.J.P.Sharma, JM

(By Hon.J.P.Sharma, JM)

Gaya Ram filed this Suit against the Union of India while he was posted as Welder in North Eastern Railway Plant Depot at Mughalsarai, district Varanasi. The Applicant, in the suit, claimed the relief for decree that the Defendant be directed to give seniority in the Welder's grade from 31.12.1975 and all consequential benefits arising out of that fixation be given to the Applicant. The suit was filed on 9.5.1985 and was transferred to this Tribunal under the provisions of S.29 of the Administrative Tribunals Act XIII of 1985.

2. The Union of India filed ^{the W.S.} ~~a suit~~ before the Tribunal denying the plaintiff allegations and stating clearly that the Applicant could not be empanelled as Welder in 1969 as he did not pass the trade test. Those who passed the trade test earlier to him being junior at the time of entering into service, have got advantage over him in the next promotion. It is said that the claim preferred by the Applicant is barred by Art.58 of Limitation Act, 1963.

3. We have heard learned counsel for the parties on 10.5.90 when they advanced their arguments on the point in issue regarding limitation as well as necessity of passing the trade test for promotion to the next grade. On that day, Sri A.P.Srivastava, learned counsel for the Applicant took time to file a rejoinder, which was granted but the office report indicates that no rejoinder has been filed within the time allowed.

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4. Today, when the hearing commenced, Sri A.P.Srivastava, learned counsel for the Applicant is not present while from the other side, i.e, on behalf of Union of India, Sri B.D.Singh, O.S., Court Cell, Railway Plant Depot, Mughalsarai is present. The main grievance of the Applicant is that he should have been given promotion w.e.f. 1975 like his juniors, but, the written statement shows that the Applicant had failed in the trade test held in 1969. This fact has not been controverted in the rejoinder. The Applicant cleared his test in the year 1979 and, so he could not be given the grade in 1975. The mere contention of the Applicant that he did not have the knowledge of examination cannot be accepted in view of clear averment by the Defendant that the Applicant had failed in the trade test in 1969. *The claim is also barred by limitation.*

5. The suit is devoid of merit and deserves to be dismissed.

6. The Suit (T.A.No.497 of 1986) is dismissed without any order as to costs.

For name

MEMBER (J)

18/5/90

Dated 18.5.1990
kkb

[Signature]
18/5/90
MEMBER (A)