

3

Reserved.

Central Administrative Tribunal, Allahabad.

Registration O.A.No.548 of 1987

R.S.Jaitlay ... Applicant

Vs.

General Manager, Northern Railway and others ... Respondents

Hon.D.S.Misra, AM  
Hon.G.S.Sharma, JM

(By Hon.G.S.Sharma, JM)

This petition under Section 19 of the Administrative Tribunals Act XIII of 1985 was filed on 22.6.1987 for a declaration that the applicant is entitled to promotion to the post of Chief Enquiry-cum-Reservation Supervisor (for short CERS) grade Rs.700-900 w.e.f. 1.1.1984 and for further declaration that on retirement he is entitled to pension on the basis of the grade claimed by him. It appears from the allegations made by the applicant that he retired from service on attaining the age of superannuation on 30.6.1984 and in 1985, under a wrong legal advice, he had moved an application under Section 33-C(2) of the Industrial Disputes Act for the computation of money benefits on the basis of the upgradation claimed by him but his application was rejected on 30.9.1986. The applicant has moved an application to condone the delay on the ground that under the bonafide belief he was prosecuting his remedy before a wrong forum and the time spent by him is liable to be excluded and the delay, if any, in filing the present petition be condoned. A notice of the application was given to the respondents and the request for condonation of delay has been opposed.

4  
A3  
X

.2.

2. We have carefully considered the contentions raised on behalf of the applicant to condone delay but do not feel satisfied with the explanation given by the applicant regarding the delay in filing this petition. The applicant wants a declaration that he was entitled to be promoted in the grade of Rs.700-900 w.e.f. 1.1.1984 and he is further entitled to get the pension and other benefits according to the grade claimed by him. Thus for promotion, the cause of action arose to the applicant on 1.1.1984 and <sup>on 1.7.84 for 2</sup> ~~some time in~~ <sup>1985 date of retirement not given</sup> regarding pension etc. For the purpose of promotion or upgradation, the limitation for filing this petition was available to the applicant only up to April, 30, 1986. The other relief regarding pensionary benefits claimed by the applicant follows from his promotion and as such, this petition should have been filed by 30.4.1986. It is understandable that under the wrong advice, the applicant might have approached the Industrial Tribunal-cum-Labour Court but the said Tribunal rejected the claim of the applicant on 30.9.1986. The applicant has furnished no explanation as to why he did not immediately file this petition before the Central Administrative Tribunal soon thereafter. In this way, there is no explanation for the delay caused by the applicant from 30.9.1986 to 22.6.1987. In the absence of any satisfactory or any explanation, whatsoever, for this period, there can be no justification on our part to condone the delay in filing this petition.

3. The application for condonation of delay is accordingly rejected and the petition is also dismissed as time barred.

MEMBER (A)

Bomma 25-1-88

MEMBER (J)

Sharma  
25-1-88

Dated: 25th Jan. 1988  
kkb