

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 05th day of December, 2001.

Q U O R U M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. C.S. Chadha, Member-A.

Original Application No. 453 of 1993.

Chandrika Ram a/a 60 years S/o Sri Hiralal
R/o Vill. Bajha, P.O. Majhauri, Distt. Ballia.

.....Applicant

Counsel for the applicant :- Sri K.K. Mishra

V E R S U S

1. Union of India through the General Manager(P),
North Eastern Railway, Gorakhpur.
2. The Divisional Railway Manager, N.E. Rly.
Samastipur (Bihar).
3. Sr. Divisional Personnel Officer,
N.E. Rly. Samastipur (Bihar).
4. Loknath Razak, Retd. O.S.I, N.E. Rly.
Samastipur (Bihar).

.....Respondents

Counsel for the respondents :- Sri Lalji Sinha

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to respondents 1 to 3 to promote the applicant to the post of Senior Clerk with effect from 24.04.1975 on which date ^{24/4} ~~this~~ vacancy arose, with all consequential benefits.

2. The facts of the case are that applicant joined as Junior Clerk in the Railways on 12.07.1956. He was

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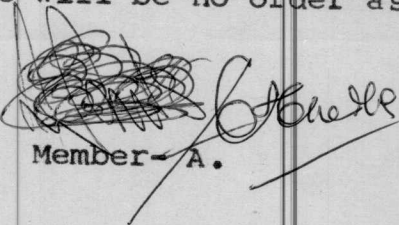
promoted to the post of Senior Clerk w.e.f 30.04.1975 whereas respondent No.4, Loknath Razak was promoted on 04.04.1975 as Senior Clerk. The grievance of the applicant is that respondent No.4 was junior to him but as he was promoted as Senior Clerk earlier than the applicant, he became senior and rest of carrier, he remained senior and occupied senior post early than applicant which has caused serious prejudice and monetary loss to him.

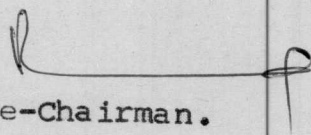
3. This OA has been filed on 02.03.1993. Applicant retired from service on 31.12.1990. On basis of the selection, the promotions were given effect in 1975. The applicant had full knowledge of the facts that respondent No.4 has been promoted as Senior Clerk earlier than applicant but he filed his representation only on 28.08.1976 which is annexure A- 4 to the O.A. Then he made representations on 25.05.1978, 20.11.1987, 20.04.1989, 21.11.1989 and on 03.06.1990. The last representation was made on 11.09.1992 i.e after the retirement. On the last representation, a reply was received by the applicant on 27.11.1992 saying that as the record of the relation^{or} year^{is} is not available, it is not possible to consider the claim of the applicant. After receipt of this letter, applicant approached this Tribunal. It cannot be disputed that the cause of action arose to the applicant in 1975 when he ^{learned} ~~legitimated~~ that respondent No. 4 has given promotion ^{& succeeded} ~~over~~ the applicant. The limitation for taking action started running from 1975. The legal position is well settled that running of limitation cannot be stopped by successive representations. The applicant approached this Tribunal only after his retirement while he ^{could} ~~should~~ have approached much earlier

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if his representations were not decided by the authorities within the period of six months. Learned counsel for the applicant has placed reliance in case of State of Bihar and Others Vs. R.P. Singh and others 2000 (3) (ESC) 1765 (SC) and A. Sagayanathan and Ors. Vs. D.P.O S.B.C Division, S. Rly, Banglore 1992 (21) ATC 126 (SC). We have considered the aforesaid judgments of Hon'ble Supreme Court. The ^{principles} ~~purpose~~ laid-down by the Hon'ble Supreme Court cannot be disputed. However, in the present case, ~~if~~ the position is that record has been lost, by lapse of such a long time, applicant is not entitled for any relief. The O.A is liable to be dismissed as time barred. The judgments before ~~the~~ Hon'ble Supreme Court were entirely ⁱⁿ different set of ~~case~~ and are distinguished. For the reasons stated above, the O.A is dismissed as time barred.

4. There will be no order as to costs.


Member-A.


Vice-Chairman.

/Anand/