

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Diary No. 3956/of 2002
in

Original Application 1609 of 2003

Allahabad, this the 3rd day of July, 2002

QUORUM : HON'BLE MAJ GEN KK SRIVASTAVA, MEMBER A
HON'BLE MR. A K BHATNAGAR, MEMBER J

Nisar Ahmed Siddiqui aged about 60 years son of
Shri S.M.Siddiqui resident of Railway Quarter
No. G/148, Rani Laxmi Nagar, Jhansi.

... .Applicant

Counsel for the applicant. - Shri R.K.Nigam.

VERSUS

1. Union of India through General Manager,
Central Railway, Mumbai CST.
2. Chief Medical Director, General Manager's Office,
Central Railway, Mumbai CST.
3. Divisional Railway Manager, Central Railway,
Jhansi.
4. Chief Medical Superintendent, Central Railway
Hospital, Jhansi.

... . Respondents.

Counsel for the respondents. - Shri D.C.Saxena

O R D E R (Oral)

HON'BLE MAJ GEN KK SRIVASTAVA, MEMBER A

In this O.A. filed under section 19 of the
Administrative Tribunal Act, 1985, the applicant
has challenged the order dated 14.10.98 (Annexure-A-I)

by which the applicant has been settled up. The applicant has prayed for quashing of the impugned order dt. 14.10.1998 and also direction to the respondents to treat the applicant on duty for the period from 14.10.1998 to 31.7.2002 for all purposes including pay, scale, annual increments, mileage and other benefits and full retiral benefits.

2. The facts, in short, are that the applicant was appointed as Assistant Driver in Bombay Division on 20.8.1963. The applicant sought for transfer to Jhansi Division, where he joined in 1964. He was promoted as Driver 'A' on 20.7.1994 and as per applicant he discharged his duties to the best satisfaction of Regional Officer/Supervisors. The date of birth of the applicant is 02.7.1942 and accordingly his date of superannuation should have been 31.7.2002. The applicant, in para 4.7 has stated that he was booked to drive Chhapra Mail on 22.12.1997. He felt unwell and reported in Railway Hospital on 23.12.1997. The applicant was discharged from the Railway Hospital on 01.01.1998 and was treated thereafter as out-door patient. As directed the applicant reported to C.M.S., Jhansi on 02.04.1998 and again on 07.4.1998. He was referred to the Apex Medical Authorities of Bombay/Byculla who declared the applicant fit in all respect on 24.4.1998. A Medical Board was constituted headed by C.M.S., Jhansi on 05.05.1998. On 01.06.1998 he was declared fit in A-I category. The applicant was re-directed to report to C.M.S. Jhansi and the applicant reported to C.M.S., Jhansi on 11.6.1998. He again reported to C.M.S., Jhansi on 01.07.1998. However, the applicant was settled up by order dated 14-10-1998 (Annexure-A-I). He made several representations to the authorities concerned.



Hence this O.A. with M.A.No. 4362/02 for condonation of delay.

The claim of the applicant has been opposed by the respondents by filing C.A. and also the objections regarding the condonation of delay.

3. The applicant's counsel submitted that the applicant filed number of representations which ought to have been decided by the respondents but respondents conveniently ignored the same. The applicant was to superannuate on 31.7.2002 and even if it is admitted that he was down graded in medical category, he should have been offered an alternate job but the respondents did not do so. Thus, the applicant has been denied his fundamental right of service ^{as} ~~which~~ he could have continued till 31.7.2002.

4. Resisting the claim of the applicant Shri D C Saxena, learned counsel for the respondents submitted that the present O.A. suffers from delay and also submitted that the respondents have not received any representation from the applicant and the applicant has also not given the mode of sending the representation to the respondents. The learned counsel also submitted that even if it is accepted that the applicant filed representation, he should have approached the Tribunal within the period of limitation as specified under section 21 of Administrative Tribunal Act, 1985. Filing of subsequent representations ^{by} ~~do not~~ extend the period of limitation.

5. The learned counsel for the respondents invited our attention to para 15 of the counter to the O.A. and submitted that the applicant filed all the relevant forms and documents and claimed

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the settlement dues amounting to few lacs of rupees. He received the same without any protest whatsoever and, therefore, it would be incorrect to state that he was offered no opportunity. Besides the applicant has been drawing pension of Rs.7301/-.

^{monthly} ^{It has been}
The pension of the applicant was fixed as Rs. 7301/- which he is receiving minus the commuted value.

6. We have heard the counsel for the parties, considered their submissions and closely perused records. Admittedly the applicant was settled up by the respondents by the impugned order dated 14.10.98 and also that the applicant has received the settlement dues. We do not find any substance in the submission of the applicant's counsel that he was not given any opportunity because the applicant on his own submitted the documents and accepted the settlement dues without any protest. In our opinion, in case the applicant was aggrieved by the orders of the respondents he should have protested and approached the authorities for considering him for alternate job which he did not. Therefore, the applicant's claim does not merit any consideration and we do not find any good ground for interference at this stage.

7. The applicant was settled up by order dated 14.10.98 and his claims regarding MCPF, DRCG and GIS were settled in March, 1999. The commuted value as well as the pension was paid after medical examination on 12.01.2000. The applicant has approached this Tribunal only on 24.9.2002. In case the applicant was aggrieved with the impugned order dated 14.10.98 of the respondents he should have approached this Tribunal within the period of limitation as laid down under section 21 of



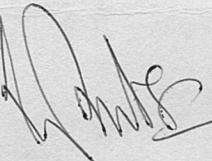
Administrative Tribunal Act, 1985. The legal position is well settled that filing of subsequent reminders/representations does not extend the period of limitation. The O.A. is barred by limitation.

8. In the facts and circumstances and aforesaid discussion, the O.A. is dismissed on the ground of limitation as well as lacking in merits.

No costs.



Member J



Member A

Brijesh/-