

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 04th day of April 2002

Original Application no. 306 of 2002

Hon'ble Maj Gen K.K. Srivastava, Member A  
Hon'ble Mr. A.K. Bhatnagar, Member J

B.K. Kukreja, S/o Sri Banri Lal,  
Retired Dy.CSTE (Construction) Central Railway,  
Jhansi, R/o House No. 43, Bansal Colony,  
Gwalior Road, Jhansi.

... Applicant

By Adv : Sri R.G. Soni

V E R S U S

1. Union of India through Secretary,  
Ministry of Railways, Railway Board,  
Rail Bhawan, New Delhi.
2. General Manager, Central Railway,  
Mumbai CST.
3. Financial Adviser & Chief Accounts Officer,  
Central Railway, Mumbai CST.

... Respondents

By Adv : Sri K.P. Singh

O R D E R

Hon'ble Maj Gen K.K. Srivastava, AM

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for quashing of orders dated 14.2.1992 and 21.4.1994. The applicant has also prayed that the respondents be directed to promote the applicant in the selection Grade in the scale of Rs. 4500-5700/ 14300-18300 from 1.7.1990, the date his juniors were promoted and accordingly his pay should be fixed with all consequential benefits.

...2/-

2. The facts, in brief, giving rise to this OA are that the applicant was working as Deputy CSTE (Construction), Central Railway, Jhansi in the Junior Administrative Grade (in short JAG) in the pay scale of Rs. 3700-5000. The Railway Board vide their letter dated 10.7.1991 promoted 29 JAG<sup>+</sup> IRSSE officers to the selection grade w.e.f. 1.7.1990 in which junior officers to the applicant were promoted and the applicant was left out. The applicant filed a representation to the <sup>k</sup>Railway Board on 26.7.1991. By impugned letter dated 14.2.1992, the applicant was informed that his case for promotion to selection grade could not be considered till the currency of penalty imposed. The applicant not satisfied with this, represented to Chief Personnel Officer (in short CPO) Central Railway on 17.9.1993 that since no vigilance/DAR case was pending against him and also for the reasons that his juniors have been promoted in selection grade. The applicant is entitled for promotion in the selection grade. Consequently, the applicant filed a representation before Secretary Railway Board on 15.2.1994 advancing the same ground that the applicant was eligible for promotion in the selection grade as no vigilance or DAR case was pending against him. In between the CPO Central Railway Mumbai vide his letter dated 21.4.1994 intimated the applicant that the applicant could not be considered for placement in the selection grade on the basis of performance. The applicant superannuated on 30.4.1995. He submitted another representation on 15.10.2000 followed by legal notice dated 16.2.2001, but no reply has so far been communicated to the applicant and all the representations are lying undisposed. Hence, this O.A.



3. Heard Sri R.G..Soni, learned counsel for the applicant and Sri K.P. Singh, learned counsel for the respondents. and perused records.

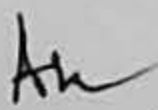
4. Sri Soni, learned counsel for the applicant submitted that from perusal of annexure 9 it is clear that the applicant was promoted to selection grade as has been mentioned in remarks column. Sri Soni further submitted that since the applicant was already working in the selection grade of JAG, the action of the respondents in not giving the selection grade on regular basis is illegal. He finally submitted that since the controversy is <sup>in</sup> regarding <sup>the</sup> pay fixation <sup>in</sup> the cause of action is recurring and the period of limitation <sup>will</sup> do not apply.

5. Contesting the claim of the applicant Sri K.P. Singh, learned counsel for the respondents raised the preliminary objection that the claim of the applicant is highly time barred as the cause of action arose on 1.7.1990 when the applicant's juniors were promoted. Since the reply has already been given by letter dated 14.2.1992 and 21.4.1994 the applicant ought to have approached the Tribunal within the period of limitation as laid down under section 21 of AT. Act, 1985.

6. <sup>in</sup> We have heard learned counsel for the parties and <sup>given</sup> have careful consideration to their submissions. We find force in the submission of learned counsel for the respondents that the cause of action arose on 1.7.1990 when the junior to the applicant's were promoted. Even if we do not take <sup>in</sup> this date as cause of action, certainly the cause of action arose on 21.4.1994 when through letter dated 21.4.1994

(Ann A2) his claim for placement in selection grade was rejected by Railway Board. The first representation was sent to Railway Board by the applicant on 26.7.1991 (Ann A3) followed by 2nd representation dated 17.9.1993 (Ann A4) and finally on 15.2.1994 (Ann A5) before the applicant superannuated. Though the applicant <sup>has made</sup> another representation on 15.10.2000 (Ann A7) and also legal notice on 16.2.2001 (Ann A8), We have no <sup>in our mind</sup> doubt to observe that subsequent representation would extend the period of limitation. The applicant should have filed the OA within the period of limitation laid down in Section 21 of AT Act, 1985. The legal position in this regard is well settled and accordingly we dismiss this OA as grossly time barred.

7. There shall be no order as to costs.

  
Member (J)

  
Member (A)

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