

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1046 OF 2002
ALLAHABAD, THIS THE 29th DAY OF SEPTEMBER, 2004

HON'BLE MR. A.K. BHATNAGAR, MEMBER (J)
HON'BLE MR. D. R. TIWARI, MEMBER (A)

Babban Singh son of Banshi Nath Singh,
resident of Quarter No.1535 C Manas Nagar,
railway Colony, Mughalsarai, Chandauli.

.....Applicant

(By Advocate : Shri V.K. Srivastava)

V E R S U S

1. Union of India through its General Manager,
Eastern Railway, Netaji Subhash Road,
Kolkata.
2. Chief Personnel Officer, Eastern Railway,
Kolkata.
3. Divisional Railway Manager, Eastern Railway,
Mughalsarai.
4. Senior Divisional Personnel Officer,
Eastern Railway, Mughalsarai.
5. Senior Divisional Signal and Telecommunication
Engineer, Eastern Railway, Mughalsarai.

.....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By Hon'ble Mr. A.K. Bhatnagar, Member (J)

By this O.A. filed under Section 19 of A.T. Act, 1985,
the applicant has prayed for following reliefs:-

- (a) That by means of suitable order or direction in the nature of certiorari quashing the order dated 12.06.1998 and 19.09.2001 (Annexure No. 7 & 11) to the application, passed by the respondents.
- (b) That by means of suitable order or direction in the nature of mandamus commanding the respondents to

provide the benefit of fixation of pay scale since 01.01.1984 to the post of Head draftsman in scale of Rs.1600-2660/- and thereafter the post of Chief Draftsman in scale of Rs.2000-3200/- and the services of petitioner be regularised w.e.f.01.01.1984 instead 27.12.1990 due to restructuring post based on Railway Board letter dated 25.06.85.

(c) That the suitable order or direction in the nature of mandamus be issued directing the respondents to regularise the service of the applicant on the post of Head draftsman since 01.04.1984 till 27.12.1990 and to provide the proforma fixation of pay scale since 01.01.1984 in scale 1600-2660/- and all other benefits as applicable therefrom and not to make any recovery in pursuance of alleged payment erroneously drawn by the applicant and further the respondents may be restrained from making re-fixation of pay in pursuance of order dated 12.06.1998, which has already paid to the applicant since 01.04.1984 to 90 and thereafter 27.12.1990 till date."

2. It is submitted by the applicant that impugned order dated 12.06.1998 has not been served to the applicant and after that another order dated 19.02.2001, which is also impugned in this O.A. has been passed by the respondents by which the representation dated 04.06.2001 was decided by the respondents.

3. Learned counsel for the applicant invited our attention on para 4.2 of the O.A. and submitted that the impugned order dated 12.06.1998 has not yet been given effect to and no recovery has been made by the respondents as yet and this fact has also not been denied in the counter affidavit filed by the respondents.

4. Learned counsel for the respondents raised preliminary objection regarding the limitation and submitted that applicant has not challenged the order dated 12.06.1998 within the time as prescribed by the Act. Therefore, it is barred by limitation.

5. We have heard both the counsel and perused the pleadings as well.

6. It is an admitted fact that letter dated 12.06.1998 (Annexure -7) has not been received by the applicant and he has challenged the order dated 04.06.2001¹, which was received by him, in this O.A. He has filed this O.A. only on 06.09.2002. Therefore, we do not find any force in the arguments advanced by the learned counsel for the respondents and we hold that the O.A. is not barred by limitation.

7. In the facts and circumstances of the case, we are of the view that ends of justice will be better served if this O.A. is disposed off by giving direction to the applicant to file a fresh representation before the ~~competent authority~~ No.4 within 4 weeks and respondent No.4 will decide the same within a period of 3 months from the date of receipt of a copy of this order along with representation, if so filed. It is also provided that no recovery shall be made in pursuance of the letter dated 12.06.1998, if not already made, till the disposal of the representation.

8. With the above directions, this O.A. is disposed off. No order as to costs.

Shukla
Member (A)

Arvind
Member (J)

shukla/-