

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 468 of 2003

Allahabad this the 02nd day of May, 2003

HON'BLE MRS MEERA CHHIBBER, MEMBER-3.

Raj Kumar Mishra,
S/o Late Daulat Ram,
R/o 143 Gurunanak Nagar Naini,
Allahabad.

... .. Applicant.

(By Advocate : Sri V.Gautam,
Sri M.Parvaz)

V E R S U S

1. Union of India, through its General Manager
Northern Railway, Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway, Allahabad.

..... Respondents.

(By Advocate :.Sri A.K.Gaur)



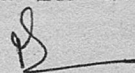
It is submitted by the applicant that applicant was appointed as Porter in the year 1974. He was ^{made to R} appeared in the P-1 training course in the year 1988 and was declared successful in the said training vide result issued on 02.05.1988. Ultimately, applicant was promoted on the post of switchman only on 17.03.90 while he could have been promoted just after P-1 training course dated 02.05.1988. He has further submitted that his other colleagues who had passed P-1 training course in the year 1988 they were also denied increments of the declared result of P-1 training course but when few of them approached the Tribunal, ^{the Tribunal} was pleased to direct the respondents to pay notional fixation of pay scale and increment to them from the date of passing of P-1 training course or the date from their juniors were promoted whichever is earlier. Copy of the order dated 24.7.90 passed in O.A. 29/90 and 358/90 is annexed as Annexure 2. Thereafter, respondents gave notional increment to some of the colleagues of applicant vide order dated 12.5.99 (Annexure 3) while denying the same to applicant. Therefore, he has submitted that the action of respondents is discriminatory in as much as he could not be denied the same benefit which has been given to few of his colleagues.

2. I have heard the applicant's counsel and perused the pleadings as well.

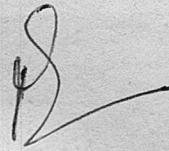
3. Annexure 2 shows that few persons had approached Tribunal in the year 1990 claiming that they should have been



appointed to the post of Switchman before fresh selections were held. The Tribunal directed the respondents that the applicants therein should be appointed from the date of their passing the P-1 course to the post of Switchman and they be given notional fixation of pay from that date or the date their juniors were appointed. It is pursuant to this order of the Tribunal that respondents have issued the order dated 12-5-1999 giving relief to those applicants therefore those orders can be said to be discriminatory. Applicant was neither one of the applicant before the court nor he has annexed any representation even with the present petition to show that he had at any time sought this relief ^{either} from the respondents. He prolonged from the court for the first time he has filed this O.A on 29-4-2003. It goes without saying that when a persons seeks appointment to a particular post with the retrospective date, it affects the rights of those who are already in employment. Therefore, if the applicant was aggrieved by any action of the respondents he ought to have approached the court at appropriate stage when the cause of action had arisen i.e. in the year 1990 when other persons were appointed as Switchman. Admittedly no effort was made by the applicant at that time to claim that relief either from the Department or from any Court. It is obvious therefore, that those persons who were selected in the year 1990 would have been given the appointment as well, against the post which were advertised at that time. Therefore, the claim of applicant pressed now in the year 2003 that he



should be appointed as a Switchman w.e.f. 1988 in place of 1990 and be also given the notional increments and fixation of pay is wholly barred by limitation and is absolutely mis-conceived. Applicant~~s~~ has not filed any application for condonation of delay. It is held by ^{Hon'ble} ~~the~~ Supreme Court in the case of Ramesh Chandra Sharma that ^{where} ~~here~~ the petitioner~~s~~ is barred by limitation, Tribunal can not even look into the merits of the case unless applicant~~s~~ seeks condonation of delay, therefore, I am bound by the Judgment given by Hon'ble Supreme Court. This O.A is absolutely barred by limitations as such is dismissed at the admission stage itself with no order as to costs.



Member (J)

Madhu/