

RESERVED  
on 21.11.2013

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
BENCH ALLAHABAD**

(ALLAHABAD THIS THE 5<sup>th</sup> DAY OF May 2014)

PRESENT:

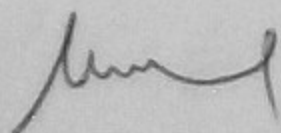
**HON'BLE MS. JASMINE AHMED, MEMBER - J**

**HON'BLE MR. U.K. BANSAL, MEMBER - A**

**ORIGINAL APPLICATION NO. 161 OF 2006.**

(U/s, 19 Administrative Tribunal Act.1985)

1. O.P. Verma (Died) S/o Shri A.N Verma Chief Inspector of Ticket (Retd.) North Central Railway, Kanpur.
- 1/1 Smt. Meena Verma, W/o Late O.P. Verma aged 63 years.
- 1/2 Shri Rajesh Verma S/o Late O.P. Verma
- 1/3 Sandeep Verma S/o Late O.P. Verma
- R/o 84/63, House No. 20 Tejab Mill Compus, Near Anwarganj Station Kanpur.
2. R.K. Sharma S/o Shri J. Ram, Chief Inspector of Ticket (Retd.) North Central Railway, Kanpur.
3. F. Kullu S/o Shri T. Kullu, Chief Inspector of Ticket (Retd.) North Central Railway, Tundla.
4. V.P. Singh S/o Shri S.N Singh, Chief Inspector of Ticket (Retd.) North Central Railway, Allahabad.
5. G.C.Verma S/o Shri Narain Das, Chief Inspector of Ticket (Retd.) North Central Railway, Allahabad.
6. K.P. Saxena S/o Shri J.N Saxena, Chief Inspector of Ticket (Retd.) North Central Railway, Tundla.
7. R.S. Ram (died), S/o Shri Bhullan Ram, Chief Inspector of Ticket (Retd.) North Central Railway, Allahabad.
- 1/1 Ajay Kumar Tyagi S/o Late R.S. Ram, aged about 48 years.
- 1/2 Virendra Kumar S/o Late R.S. Ram aged about 45 years.
- 1/3 Dhirendra Tyagi S/o Late R.S. Ram, aged about 38 years.
- 1/4 Varunendra Shashank S/o Late R.S Ram aged about 33 years.





1/5 Smt. Maya Devi W/o Kailesh Ram D/o Late R.S. Ram,  
aged about 55 years.

C/s R.S. Ram, R/o 1003/283/26/C, Allahapur,  
Allahabad.

.....Applicants

By Advocate: Shri S.S Sharma

Versus

1. Union of India through the General Manager, North Central Railway, Headquarter Office, Allahabad.
2. The General Manager, North Central Railway, Headquarters Office, Allahabad.
3. The Divisional Railway Manager, North Central Railway, DRM Office, Nawab Yusuf Road, Allahabad.
4. The Senior Commercial Manager, North Central Railway, DRM Office, Allahabad.
5. Shri K.P. Mishra, retired Chief Inspector of Tickets, 184-I/Lukerganj, Allahabad.

..... Respondents

By Advocate : Shri Anil Kumar

### ORDER

#### BY HON'BLE MR. U.K. BANSAL, MEMBER - A

Through this O.A., the applicants seek a direction to the respondents namely Officers of the North Central Railway to issue a revised promotion order on the post of Chief Inspector of Tickets from the dates the posts fell vacant as mentioned in para 4.12 of the O.A for which the applicants had already passed the Selection Test as per notification dated 29.10.1991. This is as against the orders of their promotion w.e.f. 01.03.1993 in the next restructuring of the cadre as per Railway Board's Order dated 27.01.1993 by bunching the



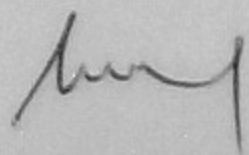


vacancies which occurred during the period from 02.01.1984 to 01.03.1993.

2. They have also prayed that the decision of D.R.M, Northern Railway, Allahabad of 20.08.2001 rejecting the claim of the applicants for promotion as C.I.T. w.e.f. 01.01.1984, at par with their junior Shri K.P. Mishra should be quashed/set aside. Further the applicants have prayed for their pay fixation in the grade of Rs.700-900/2000-3200 from the date of their revised promotion with payment of arrears, retiral dues etc. with interest.

3. In their pleadings the applicants have stated that they had filed O.A No. 301 of 1997 seeking promotion w.e.f. 01.04.1984 and grant of benefits similar to those granted to their junior Shri K.P. Mishra, who was promoted w.e.f. 01.01.1984. This matter was decided by an Order of this Hon'ble Tribunal dated 03.05.2001 where a direction was given to the respondents to decide the representation of the applicants. Vide an order dated 20.08.2001, the respondent No.3/D.R.M Allahabad decided the representation of the applicants by rejecting their claim.

4. The applicants had earlier filed an O.A. NO. 713 of 1992 claiming promotion w.e.f. 01.01.1984. This relief has also been claimed in the present O.A. vide para 8.2 of the O.A. However, this matter was adjudicated upon vide order in O.A. No. 713 of 1992 dated 11.08.1995 and that O.A. was

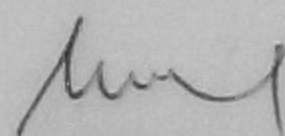




dismissed being without merit. Notably this order was not challenged and, therefore, stands. Hence, this part of relief claimed in the present O.A. is barred by principles of res-judicata.

5. What remains of the claim of the applicants is that if not from 01.01.1984, they should have been promoted against vacancies which arose in the intervening period from 2.01.1984 to 29.10.1991 instead of these vacancies being bunched together as a result of which they were promoted w.e.f. 01.03.1993. It is clear from the pleadings that this issue was not raised by the applicants in the earlier O.A. though it appears that they had raised it in their representation before the Railway Authorities. However, the respondents chose to decide the representation strictly according to the directions issued by this Hon'ble Tribunal in O.A. No. 301 of 1997 namely the matter of seniority of these applicants vis-a-vis Shri K.P. Mishra.

6. In para 4.15 of the pleadings, the learned counsel for the applicants has argued that D.R.M, Northern Railway, Allahabad should have issued promotion orders of the applicants along with the promotion of 21 others issued on 10.12.1991. It is his contention that besides the 21 senior most employees, who was thus promoted, the promotion order of remaining 14 employees, which included the applicants should have been issued and dates of promotion applicable to the applicants would have been as given in para





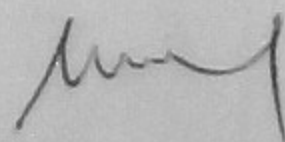
4.12 of the O.A. However, this matter has been discussed and decided in O.A. NO. 713 of 1992 by this Tribunal. It has been further stated that the D.R.M kept the vacancies unfilled even after their selection/suitability test till the Railway Board's Order dated 28.1.1993 were received (R.B.E. NO. 19/1993 at Annexure 10 of the O.A.). Consequent of this next restructuring of the Ticket Checking Cadre, the applicants were finally promoted w.e.f. 01.03.1993.

7. Learned counsel for the applicant has argued (para 4.19 of O.A.) that 14 posts of C.I.T. which fell vacant in the period ~~from~~ <sup>by</sup> 02.01.1984 to 01.03.1993 were kept vacant for over 9 years in violation of the Railway Board's Order and provisions of I.R.E.M. where suitability test is to be conducted after an interval of six months if there are one or more existing vacancies.

8. A perusal of I.R.E.M No. 214 (c) (5), however, does not support this contention. The relevant extract is given below:-

"Suitability test should be held at the interval, which should not be less than six months.....", clearly this does not make it mandatory for the Authorities to hold the Suitability Test at the interval of six months as argued.

9. Therefore, the case of the applicants is that if suitability tests had been conducted in the interim period between 1984 and 1991, the applicants would have been promoted during





the years 1984, 1985, 1986, 1987 and 1991. They have further argued that bunching of vacancies over a number of years has adversely affected their promotion (para 4.20 of the O.A.).

10. The learned counsel for the applicant has relied on ***Mukundan Vs. Administrator, Union Territory of Lakshdweep, Kavaratti and Ors. (1990) 14 Administrative Tribunals Cases 622*** and ***Vinod Kumar Sangal Vs. Union of India and Ors. (1995) 30 Administrative Tribunals Cases 262.***

11. The learned counsel for the respondents argued that the present O.A. has been filed for seeking multiple relief based on different causes of action, is highly time barred as well as barred by principles of res-judicata. They have referred to para 4.12 of the O.A. and argued that multiple relief arising on different dates between 1994 to 1991 regarding promotion and consequential benefits have been asked for by the present O.A.

12. The respondents have also referred to Section 21 of the Administrative Tribunals Act on the point of limitation and argued that if the applicants are raising their plea regarding availability of vacancies from 02.01.1984 to 29.10.1991 then cause of action arose on or before October 1991. However, the applicants filed their earlier O.A. NO. 1526 of 2001, after about 10 years, which was disposed of by the Hon'ble

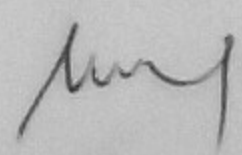
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Tribunal vide an order dated 09.11.2005 with permission to withdraw and liberty to file fresh O.A. Hence O.A. No. 1526 of 2001 itself was highly time barred. Carrying this logic forward, the learned counsel for the respondents argued that the present O.A. is also highly time barred. They have referred to the case of ***Union of India and Ors. Vs. A. Durairaj (Dead) 2011 (1) SCALE 494 and Union of India and Ors. Vs. M.K. Sarkar 2010 (1) ALLMR (SC) 982*** where it has been held that if a claim is with reference to dead or stale issues or disputes, the Court/Tribunal should put an end to the matter and should not direct consideration or re-consideration.

13. It is further argued by the learned counsel for the respondents that the question of vacancies and eligibility of the applicants for promotion in those vacancies has already been discussed and decided in the order of this Hon'ble Tribunal in O.A. No. 713 of 1992. Reference has specially been made to para 3, 4, 5, 6 and 7 of this order and hence the same issue cannot be re-agitated through the present O.A. as the same is barred by principles of res-judicata.

14. A perusal of order of the Hon'ble Tribunal in O.A. NO. 713 of 1992 dated 11.08.1995 reveals that this order has discussed and dismissed the claim of the applicants for promotion w.e.f. 01.01.1984 relying on the provisions of the letter dated 30.12.1993 issued by the Railway Board. It has been held that this letter cannot be accepted to cover those

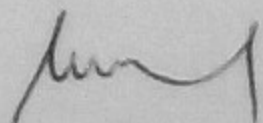




posts, which fell vacant by way of superannuation after restructuring had come into effect.

15. The only residual issue in this O.A. is that after D.R.M Allahabad promoted 21 employees w.e.f. 01.01.1984 (by letter dated 10.12.1991) in pursuance of restructuring of cadre as per Railway Board's letter of 16.11.1984, there were vacancies remaining which had arisen from 02.01.1984 up to October 1991. It has been mentioned in the Written Arguments made by the learned counsel for the applicants that D.R.M, Allahabad held a written test on 30.05.1992 to fill up 10 resultant vacancies in the posts of C.I.T. grade Rs.2000-3200/-, which had arisen during the period from 02.01.1984 to 1991 for which he had called 30 candidates. The applicants being at Sl. No. 1, 2, 3, 4, 5, 6, 7 and 9 of the list of 30 candidates appeared in the examination but no result was declared (Annexure A-9 of the O.A). Subsequently, the next restructuring of certain Group 'C' and 'D' cadres were ordered by the Railway Board vide their letter dated 27.01.1993 (Annexure A-10). As a result of this order, the applicants were promoted on 22.07.1993 w.e.f. 01.03.1993.

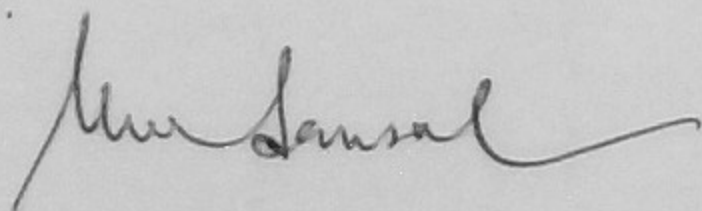
16. The objection of the respondents that the matter is highly time barred, has considerable merit. The vacancies against which the applicants are seeking promotion through this O.A. arose in the period of 02.01.1984 up to October 1991 and the applicants stake their claim for promotion to the higher posts from various dates during this period. Denial of



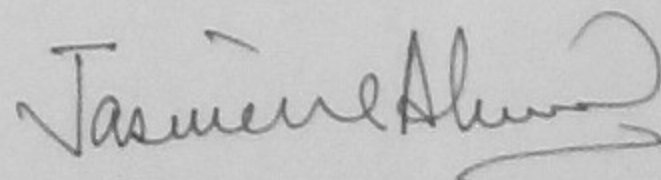


the same first took place after 21 employees were promoted by the D.R.M Allahabad vide letter of 10.12.1991. At this stage they had a cause of action to approach this Tribunal which they did not avail. When they came to this Hon'ble Tribunal through O.A. NO. 301 of 1997 their plea was to be promoted at par with Shri K.P. Mishra and it did not include the plea for promotion against the resultant vacancies arising posts from 02.01.1984. Hence this cause of action was not agitated in O.A. NO. 301 of 1997. It was only when they filed O.A. NO. 161/06 that a multiplicity of the remedies were claimed including the one under discussion. The factum of filing of O.A. NO. 1526 of 2001 cannot be taken into account to cover the relevant period as provided in Section 21 of the Administrative Tribunals Act, 1985 since this O.A was withdrawn in November 2005. It would, therefore, be fair to say that the present O.A. and the relief being sought therein is barred by time.

17. We, therefore, find that the present O.A. is highly time barred and hence liable to be dismissed on grounds of limitation as per Section 21 of the Administrative Tribunals Act, 1985. Accordingly, the O.A. is dismissed. No order on costs.



Member (A)



Member (J)

Manish/-