

(Reserved on 28.05.2012)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 1st day of June, 2012.

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. SHASHI PRAKASH, MEMBER (A)

Original Application Number. 19 OF 2007.

Radhey Shyam Srivastava, S/o Late Shri Roop Narain Lal, Resident
of Village and Post – Sagar Pali, District- Ballia.

.....Applicant.

VE R S U S

1. Union of India Ministry of Railways (Rail Mantralaya) through its General Manager, North Eastern Railway, Gorakhpur.
2. Railway Board through its Chairman, Baroda House, New Delhi.
3. Divisional Railway Manager, North Eastern Railway, Varanasi.
4. Maha Prabandhak, Karmik, North Eastern Railway, Gorakhpur.

.....Respondents

Advocate for the applicant: Shri R.K.S Nishith

Advocate for the Respondents: Shri K.P. Singh

ORDER

Delivered by Hon'ble Mr. Sanjeev Kaushik, J.M.

By means of the present Original Application filed under section 19 of Administrative Tribunals Act 1985, the applicant seeks direction to the respondents to appoint the applicant on suitable

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post under Loyal Quota as per direction contained in Letter/D.O dated 29.05.1974 (Annexure A-2).

2. The facts, which are not disputed, that the father of the applicant Late Roop Narain Lal, who retired on superannuation on 31.08.1981 as Mechanical Signal Master, worked with the respondents/Railways when the railway employees went on strike from 08.05.1974. To extend some benefit the then Railway Minister announced a scheme on 29.05.1974 extending the benefit of appointment to the ward of those employees, who worked during the strike period from 08.05.1974 to 28.05.1974. As the father of the applicant died on 30.03.1996, the mother of the applicant moved an application for the first time on 20.11.1996 to the D.R.M., Varanasi with a prayer that her son be given employment under loyal quota as per assurance given on 29.05.1974 (Annexure A-3). Thereafter several reminders were given. The last reminder is of dated 19.07.2006, which was replied by the General Manager (Personnel), Gorakhpur on 08.11.2006 rejecting her claim on the ground that under loyal quota the applications were entertained only upto 30.09.1976, hence the O.A.

3. Pursuance^d to the notice respondents resisted the claim of the applicant by filing detailed Counter Reply. In the Counter respondents have taken preliminary objection that the O.A is highly time barred as the applicant is seeking the benefit of policy which was introduced by the Railways on 16.07.1976 i.e after lapse of 30 years, therefore, the O.A be dismissed on this ground alone.

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Reliance has been placed on the judgment reported in 2000 SCC (L&S) 53- R.C. Sharma Vs. Udham Singh Kamal, 2003(2) ATJ 509 – U.O.i & Ors. Vs. C.A.T., Chandigarh and another and 1992 (21) ATC 675 – Bhoop Singh Vs. U.O.I & Ors.

4. On merits, it is submitted that the scheme of Loyal quota is one time scheme and those employees, who filed their applications till 31.12.1975, their case is to be considered. He placed reliance upon the order passed by the Principal Bench as well as Patna Bench of Central Administrative Tribunal.

5. We have heard Shri R. K. S. Nishith, learned counsel for the applicant and Shri K.P. Singh, learned counsel for the respondents.

6. Learned counsel for the applicant vehemently argued that the case of the applicant has been rejected by the order dated 08/09.11.2006 only on the ground of delay , therefore, the action of the respondents in rejecting the claim of the applicant on this ground alone is illegal and arbitrary.

7. On the other hand learned counsel for the respondents argued that the loyal quota scheme was circulated by the Railway Board on 16.07.1976 by fixing cut off dated as 31.12.1975. In the instant case since the application was not filed well within time, therefore, request for appointment under Loyal Quota cannot be considered and thus has rightly been rejected. He placed reliance upon the order passed by the Principal Bench in O.A No. 829/1999 – Pritam Vs. U.O.I & Ors decided on 28.06.1999, the order of Patna Bench in

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O.A No. 326/02 – Bhubneshwar Chaudhary Vs. U.O.I & Ors decided on 16.03.2009 and the order passed by this Bench in O.A No. 1460/11 – Bhawani Bheekh Vs. U.O.I & Ors decided on 09.04.2012.

8. We have heard learned counsel for the respective parties.
9. There emerge two questions, which are to be answered. Firstly, whether there is delay and secondly, whether the scheme of appointment under Loyal Quota is one time or not? Admittedly the mother of applicant for the first time moved application on 20.11.1996 i.e. almost after 33 years from the date when the scheme was introduced by the Railways. Moreover, from perusal of the scheme it is clear that it is one time scheme and cases of son/daughter of the loyal staff has to be considered upto 31.12.1975 and case was to be finalized before 30.09.1976 (Annexure CR-3). Therefore, the claim of the applicant has rightly been rejected by the respondents.
10. The above controversy have already been considered by this Tribunal in O.A No. 1460/2011 – Bhawani Bheekh Vs. U.O.I & Ors decided on 09.04.2012 by relying upon the decision in O.A No. 1273/11 decided on 17.11.2011. The operative para of the order dated 17.11.2011 reads as under: -

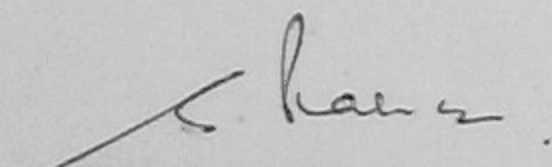
“6. The matter is about more than 30 years earlier and the Railway Board’s policy has already been scrapped. Moreover, it has been argued by the learned counsel for the respondents that the O.A is highly belated as the cause of action arose to the

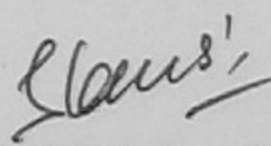
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applicant in the year 1974 on introducing the policy of the Railway Board. Nothing has been provided that this letter will continue indefinitely. If subsequently to the year 1974 any son born to such an employee then even through the employment shall be given to him this was not the intention of the Railway Board's letter. The Hon'ble Apex Court held that if a matter is highly belated then direction is not justified to be given to the respondents to decide the representation. The matter must be stopped at this stage because the Hon'ble Apex Court has held that no fresh plea of limitation shall commence from the date of decision of the representation. If this is the position then there is no useful purpose for deciding the representation. Moreover, the policy has already been scrapped.

7. Considering the facts and circumstances of the case this O.A is not fit to be entertained and is liable to be dismissed at the admission stage itself. The O.A is accordingly dismissed at the admission stage itself. No costs.

11. In view of the above, we are of the view that this O.A deserves to be dismissed. Accordingly, the O.A is dismissed. No costs.


MEMBER- A


MEMBER- J

/Anand/