

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

**HON'BLE MR.A.K. GAUR , MEMBER (J)
HON'BLE MR. D.C. LAKHA, MEMBER (A)**

Original Application Number. 215 OF 2007

ALLAHABAD this the 28 day of 10, 2009.

Kunwar Lal Ahirwar aged about 44 years son of Sri Bachhu
Resident of Village and Post Gariya Gaon District Jhansi.

.....Applicant

V E R S U S

1. Union of India through General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

.....Respondents

Advocate for the applicant: Sri R.K. Nigam
Advocate for the Respondents : Sri P.N. Rai

ORDER

(Delivered by Hon'ble Mr. A.K. Gaur, JM)

Through this Original Application applicant has prayed for a direction in the nature of Mandamus commanding the Respondents to issue appointment order in his favour in Class IV Group 'D' as per his panel position published vide letter dated 06.07.1987 (Annexure A-IV).

2. The brief facts of the case are that the applicant, who belongs to Scheduled Caste Category, and having 50% physical disability

submitted his bio-data for being appointed as per panel published under DRM(P) Jhansi's Letter No.P/161/20A/Handicapped/Class-IV/Recruitment dated 06.07.1987 (Annexure A-IV of O.A.).

3. Learned counsel for the applicant submitted that the applicant was selected for the post of Waiting Room Attendant and his name was placed at Serial No.07 of the panel. The grievance of the applicant is that junior to the applicant whose name appeared at Serial No.08, of the panel of Waiting Room Attendant has been appointed, but despite several representations (Annexure A-V, A-VI & A-VII of O.A.) the claim of the applicant has not been considered. Learned counsel for the applicant further submitted that after creation of new Zone (North Central Railway) there are 29 vacancies of Waiting Room Attendants and as per Rules the life of above panel is perpetual, and shall not be exhausted, until the last person in the panel is given appointment. The applicant is liable to be appointed in Group 'D' against handicapped quota, even at this belated stage.

4. On notice, the respondents filed their preliminary objection as well as detailed counter reply. Learned counsel for the respondents placed reliance on a decision of Hon'ble Supreme Court rendered in **R.C. Sharma Vs. Udham Singh Kamal - 2000 SCC (L&S) page 53**, wherein it has clearly been held that the delay in filing O.A must be explained reasonably and properly, and submitted that the O.A is liable to be dismissed being inordinately time barred. Learned counsel for the respondents further relied on a decision rendered by Hon'ble Supreme Court, reported in **2006 SCC L&S page 796-Karnataka Power Corporation Vs. K. Thangappan**, and submitted

that series of representations will not confer the benefit of period of limitation.

5. Learned counsel for the respondents would contend that the Junior High School Certificate enclosed as Annexure A-3 of O.A. pertains to the year 2001, whereas, the applicant is claiming relief against the notification of 1987. Learned counsel for the respondents also vehemently urged that the handicapped certificate dated 09.06.1999 (Annexure A-II of O.A.) is also forged and fabricated, as the same has no relevancy with regard to the DRM(P)'s letter dated 06.07.1987.


6. Learned counsel for the applicant filed Rejoinder Affidavit, in which nothing new has been added.

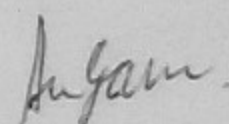
7. We have heard learned counsel for both sides and perused the pleadings as well. Learned counsel for the applicant raised preliminary objection with regard to delay in filing O.A. Having gone through Annexure A-IV of O.A., we find that the claim of the applicant pertains to the panel dated 06.07.1987. The applicant filed the present O.A. on 27.02.2007, i.e after about two decades and for which no reasonable or plausible explanation has been offered by him. The grounds taken by the applicant in the O.A. that the life of the panel is perpetual and the repeated representations filed by the applicant would provide cause of action.

8. Having given our thoughtful consideration to the pleas advanced by the parties counsel as well as the preliminary objection

of delay and laches in filing the O.A. in view of the decision rendered by Hon'ble Supreme Court in R.C. Sharma's case (Supra), we are fully convinced that the applicant has utterly failed to explain the delay. As we are going to dismiss the O.A. on the ground of delay and laches, we need not enter into the merits of the case. The applicant has failed to make out any case warranting interference by the Tribunal. Accordingly, the O.A. is dismissed on the ground of delay and laches,

9. There will be no order as to costs.


MEMBER- A


MEMBER- J.

/Anand/