

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
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O.A. No. 284 OF 1990
TxAcc No.

DATE OF DECISION 19-9-1990.

JAIDEV SINGH BAKSHI

Petitioner

MR. P.K. HANNA

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS.

Respondents.

MR. N. S. SHEVDE

Advocate for the Respondent(s)

CORAM.

The Hon'ble Mr. M. M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr. N.R. CHANDRAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

PRESENT

The Hon'ble Shri M. M. Singh,
Administrative Member;

and

The Hon'ble Shri N. R. Chandran,
Judicial Member.

ORIGINAL APPLICATION NO.284 of 1990

Jaidev singh Bakshi ... Applicant

vs

1. Union of India through the
Secretary, Ministry of Railways,
New Delhi.
2. General Manager,
Western Railway, Churchgate,
Bombay.
3. Divisional Railway Manager,
DRM's Office, Western Railway,
Baroda.

... Respondents

Mr. P.K. Handa ... Counsel for
applicant.

Mr. N.S.Shevde ... Counsel for
respondents

O R D E R

(Pronounced by the Hon'ble Shri N.R.Chandran,
Judicial Member)

The above application has been filed by one Jaidevsingh Bakshi, who was previously working as Traffic Inspector in the Western Railway at Baroda, claiming proforma promotion to Class II post with consequential benefits. The applicant joined the Railway Service as Traffic Apprentice and was later on promoted as Traffic Inspector in the scale 700-900. At that time he was deputed to Gujarat Narmada Valley Fertiliser Co., Ltd. (GNFC). The applicant was absorbed in the GNFC with effect from 27-9-1982. In the meantime the applicant submitted an application for voluntary retirement from the railway service which was accepted by the Railway Administration with effect from 27-9-1982. Later on, the said order

accepting the voluntary retirement of the applicant was cancelled by the Railways on 6-8-1985 on the ground that the ^F GN&C being a private company, under the rules of the Railways it would not be possible to accept the request. It was also pointed out to the applicant that ~~as per~~ the Railway Board's letter dated 9-11-1977, the scheme of voluntary retirement would not be applicable to those who are on deputation to autonomous body/public sector undertakings. The applicant came before this Tribunal and challenged the order of cancellation of his voluntary retirement in OA 472 of 1986. In its order dated 6-4-1989 this Tribunal set aside the order of cancellation of voluntary retirement dated 6-9-1985 and directed the respondents to pass fresh orders allowing the applicant voluntary

retirement from 29.9.82. Now the applicant claims that while he was in the Railways his promotion had been illegally denied to him and contends that he is senior to T.G. Kalra and therefore he should have been promoted like him to the next higher post.

We have gone through the application and heard the learned counsel for the applicant. We are of the view that this application is not maintainable for more than one reason. The point now being urged by the ~~ap~~ applicant was available to him when he had filed the earlier application viz- O.A. No. 472/86. It is stated in the said order in O.A. 472/86 that the applicant had restricted his relief only with regard to the cancellation of the order dated 6.8.85 in the earlier application. But he has not obtained any leave from the Tribunal to urge any other point in the earlier application. Moreover, the applicant having had an opportunity of raising this plea in the earlier application and having not availed of such an opportunity, would not be permitted to file a separate application as the same would be barred by the

principle of constructive res-judicata. We also find that even on merits, the applicant has not made out a case and the relief now asked for would be barred by limitation since it relates to the cause of action which arose before his voluntary retirement on 27.9.82, i.e. before three years of the date of constitution of the Tribunal. Hence we are of the view that the Tribunal will have no jurisdiction to entertain a case in respect of a cause of action that had ~~arisen~~ ^{arisen} before three years prior to the constitution of the Tribunal i.e. before 13-6-1983. Hence this application is devoid of merits and is rejected at the admission stage itself.

N.R.Chandran

(N.R.Chandran)
Judicial Member

M. M. Singh

(M.M. Singh)
Administrative Member

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s.v.