

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A.no. 140/1991

Date of decision : ²⁵25.07.2000

Mr. M. A. Solanki : Petitioner [s]

Mr. K. K. Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr. N. S. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. A.S.SANGHAVI : MEMBER [J]

THE HON'BLE MR. M. P. SINGH : MEMBER [A]

JUDGMENT

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

Shri. M. A. Solanki
Depot Store Keeper,
Grade III,
Sabarmati Store Depot,
W. Rly., Ahmedabad.

= Applicant =

Advocate : Mr. K. K. Shah

Versus

1. Union of India, notice to be
Served through,
The General Manager,
W. Rly., Head quarter Office,
Church gate, Bombay - 400 020.
2. Controller of Stores (Estb.)
W. Rly., Head quarter Office,
Church gate, Bombay - 400 020.
3. District Controller of Stores,
W. Rly., Sabarmati Stores Depot,
Sabarmati, Ahmedabad.

= Respondents =

Advocate : Mr. N. S. Shevde

JUDGMENT
O.A 140 of 1991

Date : 25/07/2000

Per Hon'ble Shri. A. S. Sanghavi : Member (J).

The applicant who was appointed as a Railway servant w.e.f. 20.07.59 has moved this O.A for the revision of his seniority from the date of his appointment. He has come with a case that in the year 1962, he was posted at Sabarmati Stores Depot and at that time options were invited for various postings and on his exercising that option he was posted as

Assistant Controller of Stores at Sabarmati. According to him, it was not a transfer on his own request but was in the interest of administration. ^{however} ~~but~~ on account of the option exercised by him, he was not given correct seniority from the date of his appointment i.e. 20.07.59 and was deprived of his right of promotion as well as other consequential benefits. He had preferred several representations but the respondents had not replied to any of them. Some employees who were similarly situated had moved the Bombay High Court and in the case of K. K. Subramaiaam V/s. UOI decided on 21.04.69, the Bombay High Court had quashed and set-aside the order of the Railways dated 03.11.59. Similarly in the case of R.B. Parmar, the Gujarat High Court had decided that the seniority was to be counted from the date of appointment in the non-ministerial cadre. The applicant had requested for re-consideration of his case in the light of these judgments and the respondents ^{considered} ~~exercised~~ his name in the year 1989 but on the ground of delay on the part of the applicant, they had refused to re-consider his case. He has ~~further~~ moved the present O.A with a prayer that the respondents be directed to assign him seniority from the date of his appointment in the Railways with all consequential benefits.

2. The respondents have resisted this O.A by filing their reply and contending inter alia that the application was hopelessly time barred and deserves to be rejected on this ground alone. They have also contended that the applicant


had requested for his transfer to Sabarmati depot and on his own request, he was transferred there, where he had resumed duty on 14.07.62. He had been assigned seniority from the date of his joining the duty at Sabarmati depot as the transfer was at his own request. They have denied that the transfer was ~~on~~ ^{in the} interest of administration and that the transfer was on account of the option exercised by the applicant. They have also denied that the Judgment of the Bombay High Court is applicable to the facts of the instant case. The applicant was specifically advised regarding his seniority from 1972 till the date of filing of the O.A vide letters dated 08.09.71, 22.05.72, 01.04.82, 03.05.83, 07.05.86, 25.10.89 etc. In spite of his having been informed about his seniority by all these letters, he has not taken any steps and therefore, this application is barred under Section-21 of the Administrative Tribunals Act, 1985. They have also contended that the first representation for the claim of his seniority was received from the applicant on dated 04.02.71 and it was replied by letter dated 08.09.71. Hence, the cause of action for taking legal steps had arisen in the year 1971 or ' 72 and since no actions are taken by the applicant till the filing of the O.A in the year 1991, this O.A is hopelessly time barred. They have prayed that the O.A be dismissed with costs.


3. We have heard the learned advocate, Mr. Shevde for the respondents. As Mr. K.K. Shah, learned advocate for the applicant had not remained present in spite of several

opportunities having been given to him to present himself and make his submissions, we are disposing of the O.A with the assistance of Mr. Shevde for the respondents.

4. The submissions made in the O.A themselves are sufficient to reject this O.A on the ground of limitation as well as delay and latches. It is an undisputed position that the applicant was recruited in the year 1959 and thereafter in the year 1962, he was posted in Sabarmati Stores Depot. He was assigned bottom seniority of Sabarmati Stores Depot as his transfer was on his own request. The applicant has disputed this position contending that he had exercised the option for his transfer to Sabarmati Stores Depot and pursuant to his exercising this option, he was transferred to the Sabarmati Stores Depot on administrative grounds. The respondents have no doubt met with this contention of the applicant by producing the letter of the applicant dated 28.02.62 as at Annexure R/3 which unequivocal terms state that he was requesting for his transfer to SBI Depot and that he was willing to accept the bottom seniority of SBI Depot. Even if ^{these} ~~these~~ letters had not been produced, we could not have entered into the merit of the contention raised by the applicant in view of the fact that this had transpired as far back as 1962 and if the applicant was aggrieved by his being given bottom seniority of SBI Depot, he could have opted for the legal remedy in the year 1962 or thereabout. He had been admittedly corresponding with the Railway authorities all through out from 1971 and in

spite of having the knowledge that he had been given the bottom seniority w.e.f. 1962, he has slept over his right of taking any legal recourse to redress his grievance. He now therefore, cannot be heard to make a grievance that his seniority has been wrongly fixed and the respondents cannot be directed to consider his request for proper seniority with effect from the year 1962 or 1959. The O.A is clearly barred by limitation as prescribed under Section-21 of the Administrative Tribunals Act, 1985. It is also not maintainable in view of the delay and latches in filing this O.A. A long standing seniority cannot be disturbed after such a long period. We, therefore, find that the O.A is devoid of any merit and deserves to be rejected. In the conclusion, the O.A is rejected with no orders as to costs.


(M. P. Singh)
Member (J)


(A. S. Sanghavi)
Member (J)

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