

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**O.A. No. 186 of 1992**

**Date of decision : 29.09.2000**

Mr. B. P. Jatav : Petitioner [s]

Mr. M. S. Trivedi : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr. R. M. Vin : Advocate for the Respondent [s]

**CORAM :**

**THE HON'BLE MR. A.S. SANGHAVI** : **MEMBER (J)**

**THE HON'BLE MR. G. C. SRIVASTAVA** : **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. Babsingh P. Jatav  
Chief Train Clerk,  
Udhna Yard, Udhna,  
W. Rly., Gujarat State.

= Applicant =

**Advocate : Mr. M. S. Trivedi**

Versus

1. Union of India, through,  
The General Manager,  
W. Rly., Church gate,  
Mumbai.
2. Divisional Railway Manager,  
W. Rly., Bombay Central,  
Bombay.

= Respondents =

**Advocate : Mr. R. M. Vin**

**JUDGMENT**  
**O.A 186 of 1992**

**Date : 29/09/2000**

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

Heard Mr. M.S. Trivedi for the applicant and Mr. R.M. Vin for the respondents.

2. The applicant who was working as a Chief Train Clerk at Udhna has moved this O.A praying to quash and set aside the order / directions given in the letter dated 18.4.91. The impugned letter dated 18.4.91 is issued by DRM BCT and is reply to the representation submitted by the applicant on dated 21.05.90 for re-fixing his seniority in class-III Yard Staff. The DRM by this letter has rejected the representation of the applicant. The applicant has subsequently amended the O.A and



incorporated another prayer seeking a direction to the respondents to give promotion and all consequential benefits from the date from which he is entitled and from the date his junior were promoted. He has not spelt out from which date he had become entitle to the promotion and also in which category he seeks promotion. However, from the contents of the O.A what we could gather is that he was recruited as a Train Clerk on 24.7.60 and was subsequently appointed as Dy. Yard Master in the grade of Rs.455-700/- from 1.1.79. It is his contention that in the seniority list of 1981 of Dy. Yard Master, his name was shown at Sr. No. 13 whereas one Mr. Gaekwar was at Sr. No.14. Thereafter a suitability test was held by the Railways for promotion to the scale of Rs.455-700/- on 22.11.81 and though applicant had appeared in that test along with others and had fared well, he was not selected. He has alleged that he was not selected because of the prejudicial attitude of Divisional Operating Supdt., Consequent to his failure in the said test he was not given promotion as Yard Master. However, he was allowed to function on ad hoc basis as Yard Master, but subsequently, the DRM had issued an order of reversion to the applicant in the scale of Rs.425-640/- on 24.7.84. According to the applicant this was done to victimise him so that he can loose his seniority. He has also contended that some adverse remarks were passed against him in the year 1982-83, but they were communicated to him only after four years. The reversion had affected his future promotion, loss of seniority and pay and therefore he had submitted a representation of 31.7.84 requesting the respondents to consider him for promotion. Subsequently by letter dated 14.12.84 the applicant was promoted in the grade of Rs.455-



700/- . He had thereafter made several representations from 1984 to 1990 for re-fixation of his seniority, but his requests were not considered. He had preferred the last representation on 21.5.90. He has further contended that on 8.1.88, he was promoted as Assistant Yard Master in the scale of Rs.455-700/- against the upgraded post and the effect of that order was given from 1.8.82. However, he was not given the seniority from 1982. He has contended that he was in fact entitled for promotion from 1.3.80 i.e. from the date when his juniors were promoted. According to the applicant his seniority is required to be re-fixed in the scale of Rs.455-700/- from 1.1.79, in the scale of Rs.550-750/- from 1.3.80 and in the scale of Rs.700-900/- from 8.2.84 with all consequential benefits.

3. The respondents have in their reply contended inter alia that the O.A is not maintainable in view of the same being barred by limitation and that the seniority asked for by the applicant cannot be given to him as he was not found fit for promotion during the relevant period. According to them, the applicant was promoted in the pay scale of Rs.550-750/- against the upgraded post w.e.f. 1.1.84 and he was not eligible for promotion to this post from 1.3.80 as earlier he was working on ad hoc basis and was not found suitable for promotion. His seniority was therefore rightly fixed in the upgraded post w.e.f. 1.1.84. They have prayed that the O.A be dismissed with costs.

4. We have heard the learned advocates of both the parties and have gone through the pleadings as well as documents produced on records. It is quite obvious from a bare reading of

the relief prayed for by the applicant that the O.A itself is not maintainable in view of the same being barred by limitation and also in view of the delay and laches in praying for these reliefs. The main relief prayed for by the applicant when he filed the O.A was to quash and set aside the directions given in the letter dated 18.4.91, but that letter dated 18.4.91 was only a reply given by the DRM BCT to the representation of the applicant. By that letter the DRM had rejected the representation of the applicant for re-fixation of his seniority in the seniority list of the Yard Staff. Quashing or setting aside of this letter will not serve any purpose as the seniority list will remain the same whether this letter is in existence or not. Realising this position, the applicant has amended the O.A to incorporate the prayer that the respondents may be directed to give him promotion and all consequential benefits from the date from which he is entitled and from the date on which his juniors were promoted. He has conveniently kept silent about the date from which he seeks promotion. He has also conveniently not brought out as to which of his junior was promoted earlier than him and which was the date of the promotion of his junior. It transpires from the O.A itself that he had failed to clear the test for promotion to the post of Yard Master held on 22.11.81. He was therefore not found suitable to be promoted to the scale of Rs.455-700/-, but it appears that he was given ad hoc promotion to that post and continued there till 24.7.84. However, on dated 24.7.84, when it was found that he has not cleared the test subsequently also, he was reverted to the post of Dy. Yard Master in the scale of Rs.425-640/-. It is pertinent to note at this juncture that none of these orders are challenged by the applicant till this O.A was filed. According to



the applicant he has continued to send representations, but it is a well settled position that sending representations one after another does not extend the period of limitation.

5. Furthermore, it transpires from the record that the post of Dy. Yard Master was upgraded and the applicant being senior most was given promotion to this upgraded post vide order dated 8.1.88 and the effect of that order was given from 1.8.82. According to the applicant his promotion was withheld due to some adverse remarks against him which were communicated to him after four years i.e. in the year 1984. We may again point out that even if those adverse remarks were communicated to him after four years and if they were taken into consideration by the respondents in withholding his promotion, though there is no material on record, the applicant having not challenged those adverse remarks and having not challenged his reversion is no more entitled to challenge the same in this proceedings. He has claimed that he ought to have been promoted from 1.3.80, but then that claim also is without any basis. On the contrary, the records show that he had failed to clear the test and was not eligible for promotion. He has prayed for promotion from the date his juniors were promoted but then he has not pointed out on which date his junior was promoted. Even if he had been eligible for promotion from the date of his junior then also having not challenged his non promotion on the date on which his junior was promoted he is no more eligible to challenge the same in this O.A. He has not explained the delay in filing this O.A and has also not prayed for condoning the delay. In fact according to his O.A. itself, the cause of action for filing this O.A had arisen in the

year 1979 or '80 or '84 and since this O.A is filed in the year 1992, the same is clearly barred by limitation as well as vitiated on account of vices of delay and latches. On merit also we don't find that the applicant has any case as he was never found suitable for promotion till he was promoted in the upgraded post on seniority basis.

6. The O.A therefore is devoid of any merit and therefore in the conclusion, we reject the O.A with no order as to costs.

*G.C. Srivastava*  
(G.C. Srivastava)  
Member (A)

*A. S. Sanghavi*  
(A.S. Sanghavi)  
Member (J)

Mb