

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION NO.82 of 1988.

Date of decision : July, 18, 1990.

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Dilip Kumar Rath and another : Applicants

- Versus -

Union of India and another : Respondents.

For the Applicants : M/s. D.S. Misra,
S.Moharana,
P. Mishra,
Advocate.

For the Respondents. : Mr. R. C. Rath, Learned
Standing Counsel Railways.

C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE-CHAIRMAN
A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No
3. Whether Their Lordship's wish to see the fair copy of the judgment ? Yes.

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J U D G M E N T

N. SENGUPTA, MEMBER (J), The applicants in this case have prayed for a direction to the Respondents to appoint application No.1 in any Class-III Posts.

*See Encl
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2. The facts alleged by the applicants are that applicant No.1 had appeared at a written test on 11.3.1984 held for recruitment to the Post of Apprentice for Skilled Artisan. He qualified and was called to the Viva voce test on 10.5.84 vide Annexure-1. The requisite educational qualification for such Apprentice was upto Class-VIII standard. The applicant No.1 not having got any order of appointment, his father, applicant No.2, made a representation vide Annexure-2 and in that representation he alleged that the non-selection of applicant No.1 was with malafide intention. In that representation, a reply dated 24th October, 1984 vide Annexure-4 was received and the reply was that applicant No.1 failed to qualify in the order of merit as considered by the Selection Board. In that reply it was further stated that applicant No.1 had by then not passed the qualifying examination conducted by the I.T.I. where he was alleged to have been a student. Subsequent to that, on 11.12.1984, applicant No.2 made a representation to the General Manager, South Eastern Railway vide Annexure-5 and again on 14.2.1985 another representation was made to the Divisional Railway Manager, South Eastern Railway, Khurda Road vide Annexure-6. Applicant No.2 appealed to the Railway Minister on 17.8.1986 vide Annexure-7. On 13.2.1987 a representation was addressed to the General Manager, South Eastern Railway vide Annexure-8. Applicant No.2 had served under the South Eastern Railway for about 40 years and retired on superannuation on 31.12.84. During the Railway strike of 1974, applicant No.2 did not join and was given a certificate of loyal employee. In 1974 a Circular was issued for the employment assistance to the

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children/wards of loyal employees and in accordance with that circular the applicant No.1 was entitled to be appointed to a post for which he was qualified. Some allegations have been made against one Mr. Gangayya the then Chairman of the Selection Board. The applicant has based his claim on two points namely, malafide rejection of his candidature and not following the Circular relating to employment assistance.

3. The Railways in their counter have maintained that there was no malafide, the applicant No.1 could not come within the merit list after interview and that the applicant No.1 could not be appointed in the loyal employees quota in as much as a brother of applicant No.1 had got appointment under the scheme of employment assistance to loyal employees. Apart from that, as applicant No.2 was given an advance increment, no employment assistance was available to any child of applicant No.2. They ^{- have -} also raised the plea of limitation.

4. We have heard Mr. D.S.Misra learned counsel for the Applicants on 12.4.1990 and today we have heard Mr. R.C. Rath, the learned Standing Counsel for the Railways. Mr. Rath has raised the plea of limitation. At the outset he has contended that even though the applicants were informed on 25.10.84 of the rejection of the representation made by applicant No.2, the present application was filed on 2.2.1988. In this regard Mr. Misra had submitted that applicant No.2 had made representations and appealed to different Railway Authorities, the last of which was on

*Mr. Singh
18.2.90*

19.10.1987. It has now been settled beyond controversy that repeated representations ^{- don't arrest -} ~~made with~~ the running of time and further that the representation which is not provided under any service Rules will not give rise to a fresh cause of action. After applicant No.2 was informed of the rejection of his representation on 25.10.1984 he made a further representation to the General Manager, South Eastern Railway and that was in December, 1984. Even assuming that the representation vide Annexure-5 was by way of an appeal against the order passed by the Divisional Personal Officer, South Eastern Railway, Khurda Road, the application is clearly barred by limitation in as much as it was not filed within one and half years from the date of the said representation ^{came} ~~came~~ ^{to} appeal.

5. The next contention that was advanced on behalf of the applicants was that the Rule relating to employment assistance to loyal workers enjoined a duty on the Railways to appoint applicant No.1 in a suitable post. The Railways have maintained that in fact such a relief cannot be granted to the applicants since applicant No.2 opted to have an advance increment. From the Circular quoted by the applicant it would be found that a person can avail of only one of the benefits and not more. The Railways have produced the service ^{- roll -} ~~Rules~~ of applicant No.2 and from it, we find that ^{- 2nd -} the applicant was given an advance increment with effect from 1.8.1974 and in the column ⁶⁵ meant for ~~the~~ note, the authority for such advance increment, ^{- a -} ~~with~~ reference to strike has been

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made. Thus, it would be found that applicant No.2 has availed of one of the benefits and could not claim to have a son of his appointed under the scheme of employment assistance.

5. For what has been stated above, the application fails and is dismissed. No costs.

[Signature]
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VICE-CHAIRMAN



[Signature]
.....18.7.90
MEMBER (JUDICIAL)