

X (7)

O.A.NO.113 OF 1996.

ORDER DATED 09-10-2002.

None appears for the Applicant; nor has any request been made on behalf of the Applicant for adjournment on repeated calls. Since this is a 1996 matter, where pleadings have been completed long ago, we have heard Mr. R. C. Rath, Learned Standing Counsel for the Railways, appearing for the Respondents and with his aid and assistance, we have perused the records carefully.

On perusal of the records, it is found the Applicant has made a total vague prayer in this Original Application without mentioning to which post he wants promotion and from what date. He has also not mentioned the date of the promotion of the Respondent No.6 in the prayer portion also. He has also filed this Original Application without challenging neither the seniority list/placement in the seniority between the Applicant and Respondent No.6 nor challenging the order of promotion of the Respondent No.6. On perusing the pleadings it is inferred that the Applicant wants unsettling a settled thing, of 1975.

It has been disclosed by the Respondents in their counter that the Applicant was appointed as a Temporary Asst. Teacher on 4.7.1966. Thereafter, he was promoted to Asst. Teacher Gr.II on 30.7.1979 and is continuing as a

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Senior Trained Graduate Teacher at S.E.Rly.Mixed Higher Secondary School at Bondamunda, whereas the Respondent No.6,Shri Rabindra Jha, was appointed on 8.11.1963 as Trains Clerk(TCO).Thereafter he was transferred as Adhoc Assistant Teacher,Gr.IV on 9.8.1965.On 4.4.66 he was regularised as Asst.Teacher by the competent authority. It has been disclosed by the Respondents that Respondent No.6 was promoted as Asst.Teacher,Gr.II on 27.5.1970 on being found suitable in the process of selection on 16.2.1969 for promotion to Gr.II teacher on regular basis. By virtue of the date of appointment as Assistant Teacher on regular basis on 4.4.66, the Respondent No.6 is senior to the Applicant whose date of appointment is 4.7.66. It has been urged by the Respondents that there was neither option on the part of the Applicant nor he was found suitable in the selection made in the year 1975. Lastly it has been submitted by the Respondents that since the Applicant slept over the matter for many years and did not raise any allegation over the years, being a stale claim this Tribunal should not interfere in the matter on the ground of law of limitation.

Though the Applicant has urged to have submitted repeated representation for such alleged irregularity starting from 1968 to 1992, the Respondents have specifically denied to have received such representation. However, law is

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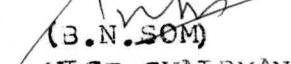
well settled that repeated representations do not extend the limitation period. further more, mere existence of right is not enough to rush to this Tribunal without trying to redress the same before the authorities. In this instant case, if there is any grievance of the Applicant, the same arose before 1976 but the applicant slept over the matter for these years and suddenly woke up from the slumber and approached this Tribunal in the year 1996. virtually, in case the prayer of the Applicant is allowed, then it would be tantamount of unsettling a settled thing which has been deprecated by the Hon'ble Supreme Court rendered in the case of THE DIRECT RECRUIT CLASS-II ENGINEERING OFFICERS' ASSOCIATION AND OTHERS VRS. STATE OF MAHARASHTRA AND OTHERS reported in AIR 1990 SC 1607(five Judges Bench) which reads as under:-

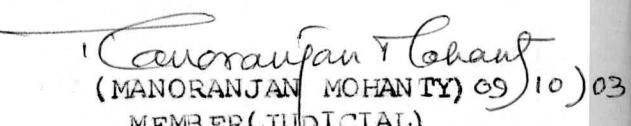
"xx xx xx xx xx xx xx xx xx.

It is not in the interest of the service to unsettle a settled position every now and then".

In view of the above, we finding no merit in this Original Application which is accordingly dismissed both on merits as also on the point of limitation. No costs.

Send copies of this order to all the Parties (including applicant and Respondents) and counsels for both parties.


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY) 09/10/03
MEMBER(JUDICIAL)

KNM/CM.