

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH  
OA 1292 OF 1996

Present : Hon'ble Mr. B.N.Som, Vice-Chairman  
Hon'ble Mr. B.V.Rao, Member (J)

Sreedhar Mishra,  
R/o 10E, Padda Pukur Road,  
Kolkata-700 020

VS

1. Union of India through the  
Chariman, Railway Recruitment Board,  
Kolkata-1
2. The Chairman, Railway Recruitment  
Board, M.M.Building, 4<sup>th</sup> Floor,  
16, Strand Road, Kolkata-1
3. The General Manager, E. Rly,  
17, Netaji subhas Road, Kolkata-0-1
4. The General Manager, South Eastern  
Railway, Garden Reach, Kolkata-43
5. The General Manager, Chittaranjan  
Locomotive Works, PO Chittaranjan,  
Dist. Burdwan.

For the applicant : Mr. P.C.Das, Counsel

For RRB Respondents : Mr. P.K.Arora, Counsel

For S.E.Rly. respondents : Mr. S.Chowdhury, Counsel

Heard on : 18.4.06 : Order on : ~~5.06~~ 31/5/06

**ORDER**

**B.N.Som, VC:**

This OA has been filed by Shri Sreedhar Mishra, who was a candidate for the posts of TS/TC/OS/CC/Accounts Clerk, Gr.II etc. in terms of the advertisement No. 1/84 of Railway Recruitment Board (RRB), and he received a call letter bearing roll No. RRB 5348. His grievance is that he was successful in the written test held on 23.9.85 but no list of successful candidates was published by respondent Nos.1 & 2 for more than one year. The panel of successful candidates was later on sent to the office of Eastern Railway,

S.E.Rly, CLW in the month of February 1987 and July/August 1987. After learning that the respondent No. 1 had issued appointment letters to some of the candidates in complete violation of the norms, he filed a representation. In the meantime, he also learnt that some unsuccessful candidates had filed OA 639/88 (**Upendra Kr. Dubey & Ors – vs- UOI & Ors**) and the said application was disposed of by the Tribunal by its order dt. 13.10.88 directing the RRB to review the cases of the applicants therein in the light of the direction given by the Rly. Board in its letter dt. 17.2.86 within two months thereafter. After the disposal of the said OA, the applicant received a show cause notice from the Chairman, RRB and he appeared for personal hearing before that authority. Thereafter, by his letter dt. 6.4.89, the respondent No. 2 informed the applicant that his name had been interpolated in the merit list of successful candidates but that his name could not be recommended to the railways for appointment at the moment due to his comparatively lower merit position. He was, however, assured that his case would be kept in view and he would be intimated in the matter as and when further development would take place. Having received no intimation thereafter, the applicant has come in this OA seeking certain reliefs as listed in Para 8 of the application.

2. Respondent No. 2 has opposed the applicant on behalf of all the respondents except respondent No. 4 both on ground of facts as well as law. On the point of fact, the case of the respondents is that due to his comparatively lower merit position, the name of the applicant could not be recommended for appointment. He was also informed of this position and in the circumstances, this application is wholly misconceived and deserves to be dismissed. On the point of law, they have pointed out that the application suffers from non-disclosure of material particulars and the same is also not in accordance with the provisions of rules of the AT (Procedure) Rules and therefore it is liable to be rejected at the threshold. They have also resisted the application on the ground of limitation. It is submitted that if the date of his last representation in the matter is taken as 7.7.93, this application having been filed after more than 3 years, the case is clearly barred by limitation as per law. Further that the instant application seeks to challenge the selection which was done on the basis of Employment Notice No. 1/84 and the results were

1

published 13 years back and hence the instant applicant has no locus standi to challenge the said selection at this belated stage.

3. Respondent No. 4 by filing a separate reply has submitted that as the said respondent authorities having never received any panel consisting the name of the applicant, they have got no comment to make on the application and nothing is accepted beyond what is available on records.


4. We have heard the Id. Counsel for the rival parties and perused the records placed before us. Mr. P.K.Arora, Id. Counsel appeared for the RRB and other respondents while Mr. S.Chowdhury, Id. Counsel appeared for SE Rly. Respondent. Mr. Arora strongly opposed the application on the ground of limitation. The Id. Counsel drew our attention to the decision of the Full Bench of the Tribunal in the case of **Dhiru Mohan -vs- UOI & Ors**, decided on 11.7.91 vide Full Bench Judgements (CAT), Vol. II page 498 and contended that this application having been filed long years after the cause of action had arisen, it is hit by the provisions of Sec. 19 and 21 of the AT Act. He further submitted that the Full Bench has already held that question of limitation has to be viewed and decided in the light of the provisions of the Act and not by invoking the provisions of the Limitation Act. It is also held that period of limitation prescribed in Sec. 21 is applicable in all causes and that the said Section does not make any distinction between an application impugning an irregular or illegal order and an application impugning a void order. It has been further held that the period of limitation prescribed by Sec. 21 of the Act would regulate the question of limitation for an application filed under Sec. 19 of the Act irrespective of the fact whether it impugns an irregular order or illegal order or a void order. The said Full Bench also held that the contrary view taken by the Principal Bench in **Shri Beer Singh** and by the Chandigarh Bench in **Ram Lal Thakur** or by any other Bench of the Tribunal cannot be said to lay down the correct law on this question.

5. We have carefully considered the rival contentions. With regard to limitation, we are bound by the law laid down by the Full Bench in Dhiru Mohon's case and in the instant case as the applicant has filed this OA in 1996 i.e. after 3 years of his receiving the communication from the RRB dt. 6.4.89, whereby he was informed that his case

2.

could not be recommended on account of his obtaining lower merit position and that he would be further intimated in the matter as and when further development took place, he could not have waited till 1996 to come out with his grievance. In any case, as merit position-wise he was placed lower than the number of vacancies available, we see no merit on the facts also and thus both on ground of limitation and on merit this OA fails.

We order accordingly. No costs.

  
MEMBER(J)  
VICE CHAIRMAN