

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH
JODHPUR

Date of order: 6th Nov. 1996.

1. O.A.No.161/1995.
2. M.A.No.159/1996 (OA No.161/95)

RAJENDRA KUMAR BHATNAGAR

...APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

PRESENT:

Mr.S.N.Trivedi, counsel for the applicant.
Mr.S.S.Vyas, counsel for the respondents.

CORAM:

HON'BLE MR.S.C.VAISH, ADMINISTRATIVE MEMBER

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER.

PER HON'BLE MR.S.C.VAISH:

The applicant, Shri R.K.Bhatnagar, is an Office Superintendent, Grade-I, with the Respondent-Railways and posted at Bikaner. He has come to the Tribunal regarding his seniority.

2: The respondents have filed a reply and objected to the application to which the applicant has not filed a rejoinder. The applicant further moved an M.A. No. 159 of 1996 in this O.A. seeking condonation of delay. The respondents today filed a reply to the M.A. with a copy to the counsel for the applicant.

3. With the consent of both the counsels, we heard them on the preliminary objection of limitation. The cause of action to the applicant arose on 21.8.1989 (Annex.A.1), when his representation was rejected. He has further challenged a Circular of the Railway Board dated 27.2.1970 (Annex.A.2). He has further challenged Para No. 319 of the Railway Manual. Moreover, the applicant did file another O.A. in this matter which was withdrawn with the permission of the Court on 13.4.1994 and the present O.A. was filed on 17.4.1995. The learned counsel for the respondents urged that the cause of action is a decade old. Moreover, when the earlier application was withdrawn in April 1994 with permission to file a fresh application, he urged that this

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permission in no way condoned delay or limitation and would be subject to the law of limitation. Further, we note that after withdrawing the earlier application, the applicant took one full year to file the present O.A. on 17.4.1995.

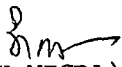
4. The learned counsel for the applicant urged that in a similar case Shri Jagdish Rai Agarwal Vs. Union of India and Others, O.A.No. 292 of 1986, in an order pronounced on 14.6.1988, the Jodhpur Bench had observed "this is apart from the fact that the applicant's grievance regarding depression of his seniority furnishes recurring cause of action. The plea of limitation is, therefore, hereby repelled."

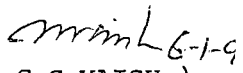
5. The decision in the earlier application is of no help to the applicant. The O.A.No.292 of 1986 was filed in the year 1986 when the present applicant had moved the Tribunal in 1995. Moreover, the law laid down by the Hon'ble Supreme Court in the Bhoop Singh's case (1992)21 ATC 675), established that a judgment in another case does not give rise to a fresh cause of action in the present case. The learned counsel for the applicant pressed upon us 1994(26) ATC 888 and O.A.No. 451 of 1991, C.S.Alias Ahmed Vs.Union of India and Others, decided on 29th December,1992 and reported in Full Bench Judgments.

6. We have considered the arguments of both the learned counsels. We are of the view that in the matter of seniority and seniority list, the applicant has to be vigilant and move the Tribunal in time for his redressal. It can not be accepted that a rule of seniority or a seniority list can be re-opened at any time after a decade. Such an argument would lead to a very indefinite situation in matters of seniority. In this particular case, we also ^{note} ~~knew~~ that the applicant took one full year to file a new O.A. after withdrawing his last one.

7. In view of the above discussion, the Application is rejected on grounds of limitation in limine.

8. There shall be no order as to costs.


(A.K.MISRA)
Member (J)


(S.C.VAISH)
Member (A)