

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 28.9.2000.

O.A. No. 198/1996

O.P. Dhania S/O Shri Bhola aged 38 years, Head Ticket Collector, Grade Rs.1400-2300, Northern Railway, Bikaner, R/O Behind Municipal Board, Bikaner.

... Applicant

Vs

1. Union of India through General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi,
2. Divisional Railway Manager, Northern Railway, Bikaner Division, Bikaner.
3. Senior Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.
4. Senior Divisional Commercial Manager, Northern Railway Division, Bikaner.
5. Shri Phool Singh, Head Ticket Collector, Hissar (Haryana)
(Service of notice be made through Respondent No.3)

... Respondents

Mr. Y.K. Sharma, Counsel for the Applicant.

Mr. S.S. Vyas, Counsel for the Respondents Nos. 1 to 4

None is present for Respondent No.5.

CO RAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R.

(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant O.P. Dhania has

Gopal Singh

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prayed for setting aside the impugned order dated 24.8.'95 at Annexure A/1, and for a direction to the respondents to assign the seniority to the applicant over and above respondent No.5 with all consequential benefits.

2. Applicant's case is that he had applied for the post of Head Ticket Collector ('HTC' for short) in response to respondents letter dated 9.1.1985 (Annexure A/2). However, his name did not appear in the final selection list dated 6.2.'85 (Annexure A/4). The applicant was also not selected in the selection held in 1986 under modified selection scheme, the result of which was declared on 29.5.'86 (Annexure A/5). The contention of the applicant is that he had passed the P-6 course prior to respondent No.5, therefore, he should have been considered for the post of HTC earlier to respondent No.5 because para 303 of REM Vol. I stipulates that a candidate who is sent for initial training will rank senior in the relevant grade to those who pass the training later on. Representation made by the applicant in this regard in the year 1991 was rejected by the respondents vide their letter dated 6.3.1991 (Annexure A/8). In reply to subsequent representation made by the applicant, he was informed vide letter dated 24.8.'95, (Annexure A/1) that the reply already sent vide the office letter of even number dated 6.3.'91 holds good. Feeling aggrieved the applicant has filed this application. The applicant had also filed an O.A. No. 359/95, but the same was withdrawn with liberty to file fresh O.A.

3. In the counter, while contesting the application the official respondents have stated that none of the juniors of the applicant were promoted under the scheme. Respondents have also stated that though respondent No.5 had passed the P-6 course in 1994 much after the applicant, respondent No.

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was promoted as per his seniority in the feeder cadre. They have also contested the application on the ground of limitation stating that the grievance arose to the applicant on 6.3.91 and this application has been filed in the year 1996 much after the permissible limitation period and further that the applicant has never challenged the order dated 6.3.'91.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. The applicant has impugned the order dated 24.8.95 (Annexure A/1) which is nothing but a communication to the applicant that the reply already sent vide letter dated 6.3.9 holds good. In effect the applicant is challenging the order dated 6.3.91 in this O.A. filed on 4.6.96 after more than five years from the date the grievance arose. This application cannot, therefore, be treated as within limitation period. Moreover, the applicant has not filed any application for condonation of delay explaining why he could not approach the Tribunal earlier. Thus, the application is barred by limitation and can be dismissed on this count alone.

6. On merits it is a fact that the applicant had passed the P-6 course earlier to respondent No.5, and in terms of Para 303 of REM Vol. I, the applicant should have been held senior to respondent No.5 and considered for promotion to the post of HTC earlier to respondent No.5. But, the respondents in their reply have stated that respondent No.5 was promoted as per his seniority. They have also submitted seniority list dated 19.7.70 where respondent No. 5's name figure at S1.121 and the applicant's name does not figure therein. In this seniority list it has also been mentioned that item No. 34 to 124 have been assigned seniority as per their panel position of HTC, HTTE & TNCR issued on 29.5.86. Keeping in view

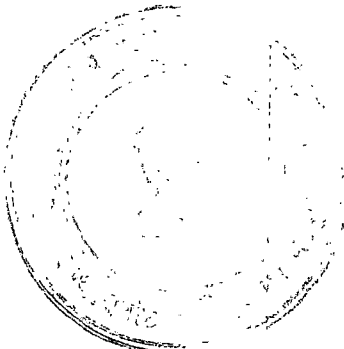
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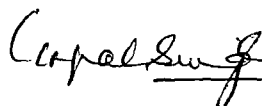
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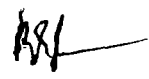
their substantive seniority. This seniority list dated 19.7.90 was never challenged by the applicant. Moreover, respondent No.5 (Phool Singh) was promoted as Head Ticket Collector vide order dated 6.2.85 under restructuring scheme. The applicant has now woken up and has prayed for change of seniority that in existing since 1986. At this late stage the applicant cannot be permitted to unsettle the settled position of seniority. The applicant has been sleeping over his rights all these years and the law cannot come to the rescue of a sleeping person.

7. In the light of above discussion, we have no option but to disallow the application.

8. The Original Application is accordingly dismissed with no order as to costs.




(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman

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