

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**ORDER SHEET**

APPLICATION NO 31 OF 2002

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Applicant (s)

Respondent (s)

Advocate for  
Applicant (s)

Advocate for  
Respondents (s)

Notes Of the Registry

Orders Of The Tribunal

22.02.05

Mr. S.N. Trivedi, Counsel for applicant.  
Mr. Vinay Jain, Counsel for respondents.  
Heard the learned Counsel for  
both the parties

O.A is dismissed by a separate  
Order for the reasons recorded therein.

                      
**G. R. PATWARDHAN**  
Adm. Member

                      
**KULDIP SINGH**  
Vice Chairman

file read  
on 1/3/05  
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**CENTRAL ADMINISTRATIVE TRIBUNAL**

**JODHPUR BENCH.**

M.A.No.16/2002 in  
O.A.No.31/2002

Decided on : February 22 ,2005

**CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN &  
HON'BLE MR.G.R.PATWARDHAN, MEMBER (A.)**

Sohan Lal S/o Shri Devi Lal Ji by Caste Sukhwai-Brahmin, aged 36 years, resident of at present working as Diesel Assistant, Western Railway, UDAIPUR CITY.

Applicant

By : Mr. S.N.Trivedi, Advocate.

Versus

1. Union of India through its General Manager, Western Railway, Headquarter Building, Church Gate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer.
3. The Senior Divisional Mechanical Engineer (Estt), Western Railway, Ajmer Division, D.R.M. Office, Ajmer.

Respondents

By : Mr. Vinay Jain, Advocate.

**ORDER** (oral)

**KULDIP SINGH, VC**

The applicant has filed this O.A. whereby he has challenged the order dated 24.5.2000 (Annexure A-1), passed by the respondent no.2. He has also challenged the order dated 22.5.2000 (Annexure A-2), passed by the respondent no.2. Annexure A-1 pertains to the seniority list issued by the respondents in respect of Group 'C' as First Fireman/Diesel Assistant, working in the pay scale of Rs.3050-4990. Annexure A-2 has been issued by the respondent no.2 in response to the representation made by the applicant whereby he has been informed that his name in the seniority list has been included in the seniority list dated 27.12.1999, below Sr.No.488, pertaining to Shri

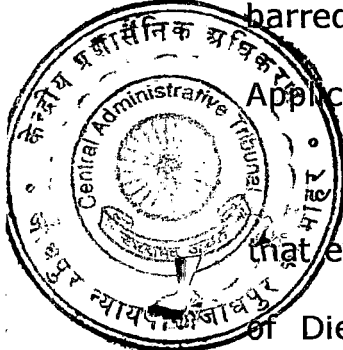


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Athar Ali and above Shri Anil Kumar Sharma, who is shown at Sr. No.489 and thus the applicant has been included at Sr. No.488-A. The applicant has a grievance that his seniority position has not yet been correctly shown in the list.

The applicant has challenged order issued on 24.5.2000 and the present O.A. has been filed on 29.1.2002, so apparently the O.A. was barred by time and the applicant has also moved a Miscellaneous Application No.16/2002, seeking condonation of delay.



In the application for condonation of delay the applicant pleads that even though the date of recruitment of the applicant to the post of Diesel Assistant through Railway Recruitment Board, Ajmer, in response to the Advertisement No.1/88, on completion of successful training of 52 weeks is 31.8.1993, but the applicant has not been shown in the seniority lists which were published in the years 1994, 1997 and 1999. So he made representations and ultimately name of the applicant was included in the final seniority list published by letter dated 24.5.2000 (Annexure A-1) wherein he has been shown at Sr. No. 490 but the same is also not correct. Therefore, the applicant is stated to have made another representation to the Railway Administration on 1.12.2000, followed by reminder dated 21.6.2001 but no heed has been paid and because of that the applicant has been deprived of his legitimate chance of getting promotion to the post of Shunter and as such, he claims that there is a recurring cause of action pertaining to his seniority.

The application for condonation of delay is opposed by the respondents. They plead that when the seniority list was circulated it was duly notified to the applicant and his name has been included in

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the seniority list which was published on 24.5.2000 and before publication of the same the applicant was informed vide letters dated 22.5.2000 but it is submitted by the respondents that the applicant did not make any representation against the seniority list dated 24.5.2000 and has filed the instant O.A. after more than one year, with a prayer to quash the Annexures A-1 and A-2, thus the O.A. is barred by time and as such the same cannot be entertained by this Tribunal and is liable to be dismissed.

We have heard the learned counsel for the parties and perused the pleadings as contained in the M.A. Seeking condonation of delay as well as the alleged representations made by the applicant.

In the pleadings the applicant states that a final seniority list had been published on 24.5.2000 and thereafter he made another representation on 1.12.2000. The counsel for the applicant also argued that he was not aware of the final seniority list as the same has not been notified to him. Therefore, he could not file the O.A. in time. But the reading of the application shows that the applicant was well within the knowledge of the seniority list which was published on 24.5.2000 and thereafter he filed a representation on 1.12.2000 so now the applicant cannot claim that he has not been informed about the seniority list having been published on 24th of May, 2000. Besides that we may mention that Annexure A-1, filed by the applicant himself shows that a direction has been issued to the authorities <sup>to take effect</sup> with a ~~direction~~ <sup>direction</sup> that the seniority list should be circulated to all the employees and their signatures be obtained on true copies separately. So, we do not find any reasons as to how the applicant has not been notified about the seniority list. Moreover, the applicant in his M.A



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nowhere pleads that he had not been notified about the seniority list dated 24.5.2000. As regards his representation dated 1.12.2000 is concerned, the same has been made against the impugned order dated 22.5.2000 i. e. Annexure A-2 whereby the applicant had been informed that his name has been kept in the seniority list in between Sr.No.488 and 489 at Sr.No.488-A but no representation has been made against the seniority list dated 24.5.2000. Assuming that the



seniority list dated 24.5.2000 has not been notified and the applicant has challenged the order dated 22.5.2000 and the seniority list dated 24.5.2000 may be successive seniority list issued to the earlier order and the name of the applicant has been included in the seniority list, the applicant could have challenged the order dated 24.5.2000, within ~~one year~~ <sup>prescribed period</sup> after his representation had not been answered by the respondents. It shows that <sup>since the</sup> no response has been given by the respondents, the applicant could <sup>have</sup> challenged the letter dated 22.5.2000, within the time nor he has challenged the seniority list dated 24.5.2000.

In this regard we may also mention that it is well settled law that the seniority list as settled should not be easily unsettled and courts should be slow to unsettle the position. In this case, the applicant himself did not come to the Court within the time so it would not be proper to reopen the entire issue again. Hence, we are of the considered view that the O.A. is barred by time and is liable to be dismissed. Accordingly, the M.A. As well as O.A. are dismissed. No order as to costs.

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(G.R.PATWARDHAN)AM

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(KULDIP SINGH)VC

February 22, 2005.

HC\*

5. Copy received on  
behalf on Vinay Jain Adv.

A  
3/3/05

Copy recd

Rm Bishni

Ram milap Bishni

Due

S.W. Kewal.

3/3/05