

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

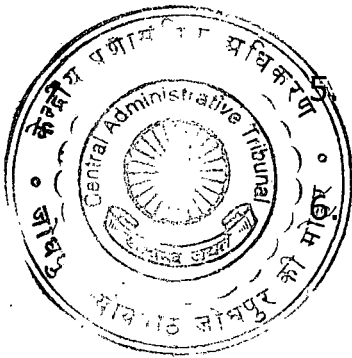
Original Application Nos.323/2002

Date of decision: 16.2.2010

Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.

Hon'ble Dr. K.S.Sugathan, Administrative Member.

1. Ram Ratan, s/o Shri Banshi Lalji, (ticket No. 10032/14) aged about 41 years, r/o near Kumharon Ka Mandir Ist B. Road, Opp. Mangal Floor Mill, Sardarpura, Jodhpur.
2. Suraj Prakash, S/o shri Shankar Lal Ji (tkt. No. 6289/12) aged about 57 years, R/o Behind Kumharon Ki Bagechi, Balaji Mandir, Hari Kirana Store, Masooria Road, Jodhpur.
3. Laxmi Narayan, S/o Shri Rama Kishan ji, Ticket No. 6909/12) aged about 49 years, R/o infront of chouhanji Ka Nohara, Umed Chowk, Jodhpur.
4. Madho Singh s/o shri Radhunath Singh ji (ticket No. 6016/14) aged about 52 years, r/o plot no. 359, Bhagwan Mahaveer Nagar Nandari Road, Banar, Jodhpur.
- Kalu Ram S/o shri Nathuram ji, (ticket No. 6756/12) aged about 49 years, r/o pratap Nagar, Sanjay Gandhi Colony, street No. 1, Jodhpur.
- Gajendra singh S/o shri Indra Singh, (ticket no. 10037/12) aged about 45 years, r/o Jalorian Ka Bass, Behind Gopal Bhawan, Inside Nagauri Gate, Jodhpur.



: Applicant.

Rep. By Mr. Kuldeep Mathur : Counsel for the applicants.

Versus

1. Union of India through the General Manager, North West Railways, Jaipur (Rajasthan)
2. Dy. Chief Mechanical Engineer, (Work Shop) North West Railways, Jodhpur.
3. Anand Kumar, presently working as Technician I (Ticket no. 6778/8 through Dy. Chief Mechanical Engineer (Workshop) North West Railway, Jodhpur.
4. Hari Ram, Presently working as Technician I (ticket No. 6859/23 A/14) through the Dy. Chief Mechanical Engineer (Workshop) North West Railway, Jodhpur.

: Respondents.

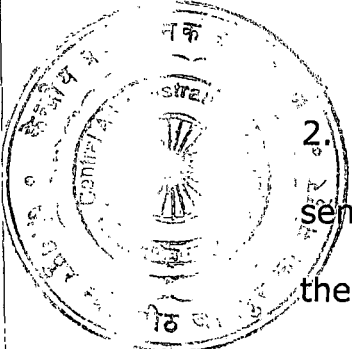
Rep. By Mr. Salil Trivedi : Counsel for respondents 1 & 2

Mr. P. Bohra : Counsel for respondent No.3

Mr. B. Khan : Counsel for respondent No. 4

ORDER**Per Mr. Justice S.M.M. Alam, Judicial Member**

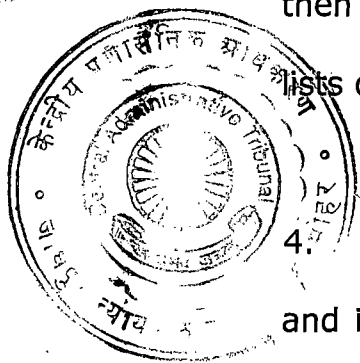
Applicant Ram Ratan and five others have preferred this O.A seeking relief that the orders dated 29.10.2002 bearing No. 847/E/p.3/Seniority/ C&W/Part II/2002/101 passed by respondent No. 2, may kindly be quashed and set aside and the provisional seniority lists dated 28.10.1994 and 26.05.1997, pertaining to Kushal Fitter (C&W) -I along with seniority list dated 27.07.2000, showing respondents 3 & 4 over and above the applicants, be declared illegal and with a further prayer that the official respondents be directed to assign correct seniority to the applicants along with all consequential benefits.



2. In short, the case of the applicants is that in the year 1991, a seniority list of Kushal Fitter Gr. II was issued in which the names of the applicants appeared at Sl. Nos. 52, 89, 59, 78, 56 and 50 whereas the names of respondents 3 & 4 appear at Sl. No. 111 and 112. On 27.07.2000, another seniority list of Kushal Fitter Gr. I (Technician Gr. I) was issued and the names of the applicants appeared at Sl. No. 18, 42, 25, 33, 24 and 17, whereas the names of respondents 3 & 4 appeared at Sl. No. 14 and 15. It further transpired that the respondent department wrongly changed the dates of seniority of respondents 3 & 4 from 10.05.88 and 07.09.88 to 11.12.84. The applicants submitted several representations to the official respondents on which the respondents issued an order dated 29.10.2002 through which the applicants were informed that respondent Nos. 3 & 4 have been given proforma seniority from the

date the person junior to them was given seniority. The said communication has been annexed with the O.A as Ann. A/1 which is under challenge.

3. It appears that in reply to the un-amended O.A, the official respondents have contended that prior to the provisional seniority list of the year 2000 (Annex. A/3), two other seniority lists were issued in the year 1994 and 1997 respectively and in both the seniority lists applicants were placed below respondents 3 and 4. Thereafter, the applicants preferred M.A. No. 94/2004 seeking permission to amend the O.A. The said M.A. was allowed vide order dated 16.12.2004 and then applicants filed amended O.A challenging the validity of seniority lists of 1994 and 1997 also.

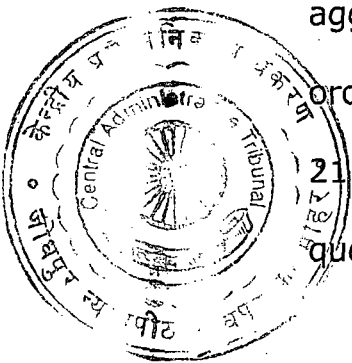


4. The official respondents have filed reply to the amended O.A and in the reply the respondents have taken a preliminary objection that the O.A is barred by limitation. The respondents have submitted that the relief claimed by the applicants in the instant O.A is barred by limitation as the applicants have assailed the validity of seniority lists dated 28.10.1994 and 26.05.1997, in the year 2002 which is clearly beyond the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

5. During the course of the arguments the learned counsel of the official respondents submitted that before deciding the case on merits, the Tribunal must give its finding whether the present O.A is filed in time or barred by limitation. He further argued that if the

the Jodhpur Bench of the Central Administrative Tribunal in the case of **Mahesh Chand and ors. vs. UOI and ors.** [O.A. No. 193/2003 and M.A. No. 2/2004- decided on 04.03.2005]. In view of the above contention of the respondents firstly we would like to take up the point of limitation.

6. Admittedly, this amended O.A has been filed challenging the seniority list of the year 2000 along with the seniority lists of the years 1994 and 1997. This amended O.A was filed in the year 2002 and as per Sec. 21 of the Administrative Tribunals Act, 1985, an aggrieved party should file O.A within one year. From the date of final order which is under challenge. Sub Section 1 (a) and 1 (b) of Sec. 21 of the Administrative Tribunals Act, 1985 are relevant which are quoted below:-



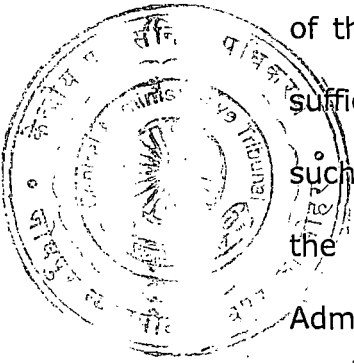
21. Limitation

(1) A Tribunal shall not admit an application -

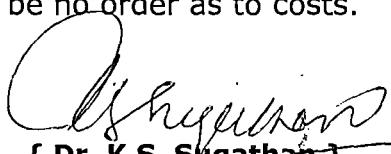
- (a) in a case where a final order such as is mentioned in Clause (a) of sub-section (20) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

7. Since the applicants have challenged the seniority lists of the year 1994 and 1997 in the year 2002, it goes to show that this O.A has been preferred after a lapse of 8 years from 1994 seniority list and 5 years from 1997 seniority list. An argument has been advanced by the learned counsel of the applicants that the applicants had no knowledge about the existence of seniority lists of the years 1994 and 1997 and they came to know about its existence only after filing of the reply by the respondents to the un-amended O.A. Therefore the learned counsel of the applicants contended

that limitation period should be counted from the date of knowledge of the existence of the above mentioned seniority lists and not from the actual date on which the above two seniority lists were issued. We are unable to agree with the arguments of the learned counsel of the applicants as it is not at all convincing that for such a long time the applicants were not aware about the existence of the above mentioned two seniority lists. Moreover it appears that knowing full well that the present O.A is barred by limitation, no Misc. Application for condonation of delay was preferred on behalf of the applicants. Law is very clear on this point and there is settled law that unless a petition for condonation of delay is on record, no formal order condoning the delay can be passed by the Courts/Tribunals. In such view of the matter we are of the view that the applicants have failed to show sufficient cause for not making this application within prescribed time as such we have no alternative except to hold that the O.A has been filed after the expiry of the period of limitation as prescribed under Sec. 21 of the Administrative Tribunals Act, 1985.



8. Since we have arrived at the finding that the present application is barred by limitation, we do not feel any necessity to give our finding on merits of the case. In the result, this O.A stands dismissed being barred by limitation. However, in the facts and circumstances of this case there will be no order as to costs.


{ Dr. K.S. Sugathan }
Administrative Member.


{ Justice S.M.M. Alam }
Judicial Member.

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