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CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

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Date of Order : 2nd September, 2002.

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1. O.A. NO. 148/2002  
2. M.A. No. 67/2002 (OA No.148/2002)

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Jai Narain Dabla, S/o Shri Duli Chand Ji Dabla by caste Dhanka, aged about 63 years, at present residing at Purani Abadi, Sriganganagar, Ex. Chief Inspector Ticket (TCR), Northern Railway, Sriganganagar.

.....Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, Headquarter Building, New Delhi.

2. The Divisional Railway Manager, DRM's Office, Northern Railway, Bikaner.

3. The Divisional Personnel Officer, DRM's Office, Northern Railway, Bikaner.

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman  
Hon'ble Mr. A.P. Nagrath, Administrative Member

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Mr. S.N.Trivedi, is present on behalf of the applicant.

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ORDER

PER MR. JUSTICE G.L. GUPTA :

Through this O.A., the applicant seeks directions to the respondents to pay him the actual benefit of arrears of salary on account of promotion and pay fixation under the Revised Pay Rules.

Along with the O.A., Misc. Application No. 67/2002, has been filed by the applicant for condoning the delay.

2. It is averred that the applicant had filed O.A. No. 357/87, which was decided by this Tribunal vide order dated 22.6.93, declaring that the applicant was a member of S.T. community with effect from 26.9.76. It is stated that pursuant to the order of the Tribunal, the applicant was treated as a member of the S.T. community and he was placed on the panel of C.I.T. in the scale of pay of Rs. 2000-3200 vide letter dated 29.11.95 and was also posted as CIT-TCR, Sriganganagar, vide order dated 30.11.95 but, his promotion was only on proforma basis and the actual monetary benefit was not given to him. It is stated that the applicant is entitled to the actual monetary benefit of promotion from the date persons junior to him got the promotion.

3. Mr. Trivedi, learned counsel for the applicant contended that a Full Bench of the Tribunal vide its decision dated 11.2.2002, Devi Lal and others vs. Union of India [2002(1) ATJ 485], has struck down para 228 of Indian Railway Establishment Manual, Volume I and, therefore, the applicant is entitled to the actual monetary benefit of the promoted post.

4. Applicant wants to challenge the orders dated 28.12.95 and 3.1.96



This O.A. has been filed on 29.5.2002. No good cause has been shown for condoning the delay in filing the O.A. within the period of limitation. The striking down of para 228 of the Indian Railway Establishment Manual, Volume I, by the Full Bench on 11.2.2002, cannot be a ground to condone the delay. The M.A. is dismissed.

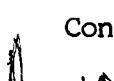
5. It is noticed that the applicant has already retired from service. It is further noticed that the applicant was not treated as a member of S.T. community when he joined service. It is evident that after the Collector, Sri Ganganagar, issued a certificate to the applicant, declaring him as member of S.T. and that his son had already been treated as a member of ST community, the applicant was declared as member of ST community.

6. It is not borne-out from the record, that the applicant was denied promotion when his junior Shri Brij Mohan was promoted, on the ground that he was not a member of S.T. community. As a matter of fact, the right of promotion on roster basis had accrued to the applicant after the decision of this Tribunal in O.A. No. 357/87 dated 22.1.93.

7. Apart from that on the basis of the Full Bench decision in Devilal and others (supra), past cases cannot be directed to be re-opened. The learned counsel for the applicant was not able to show any authority laying down that if a particular provision is struck down, all the past cases should be re-opened.

8. For the reasons aforesaid, we find no case in favour of the applicant.

9. Consequently, the O.A. is dismissed in limine.

  
[A.P.Nagrath]  
Member (A)

  
[G.L.Gupta]  
Vice Chairman

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