

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 401/2011
with MA No 161/2011

Reserved on : 05.04.2016

Jodhpur, this the ^{8th} day of April, 2016

CORAM

Hon'ble Dr. K.B.Suresh, Judicial Member

Hon'ble Ms. Praveen Mahajan, Administrative Member

Dau Lal s/o Shri Rawat Ram, aged about 38 years, resident of
Outside Nagauri Gate, Kaga Badi, Bhil Basti, Jodhpur

.....Applicant
By Advocate: Shri J.K.Mishra

Versus

1. Union of India, through General Manager, HQ Office, North Western Railway, Malviya Nagar, Near Jawahar Circle, Jaipur-17.
2. Dy. Chief Mechanical Engineer, North Western Railway, Railway Workshop, Jodhpur.
3. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur

.....Respondents

By Advocate : Mr. Govind Suthar, proxy for Mr. Manoj Bhandari

ORDER

Per Hon'ble Ms. Praveen Mahajan, Member (A)


Heard both sides.

2. The two main issues to be decided here are whether the

channels for the posts exclusively meant for ST candidates only. Secondly, whether the relief can be sought for after expiry of the selection panel.

3. The case of the applicant, who is a Scheduled Tribe (ST), is that in the year 1993 a notification for special recruitment drive for filling up 40 Group-D posts against backlog vacancies meant for scheduled tribe, was held. The applicant appeared in the viva-voce before the Selection Board held in December, 1992. The applicant has brought to our notice that after the selection, 33 candidates belonging to ST category got selected. Names of the remaining candidates were struck off on account of fake ST certificates. The applicant claims that though names of other persons were deleted from the selection panel, but eligible candidates, him included, were not included in the same.

4. The learned counsel for the respondents states that, remaining seven posts of reserved candidates have been filled up by the Department on request transfer, and, on compassionate grounds. The learned counsel for the respondents also states that it is the sole domain of the employer to fill up the posts in accordance with law. **The applicant after a period of nearly 20 years, cannot lay claim to the vacancies which existed at that**

Sohail point of time. The respondents relied upon the judgment dated

Petition Nos. 1582/2001 etc., Maniram and Ors. Vs. State of Rajasthan, which provides as under :

"Service- Appointment – Delay in filing- Present petition challenging appointment on alleged post – Whether present petition challenging appointment was maintainable – Held, present petitions had been filed much beyond period of panel prepared in pursuance to advertisement – Petitioners would not be entitled to seek appointment after expiry of lifetime of panel – therefore, unable to grant relief to Petitioners for appointment after expiry of panel prepared in pursuance to advertisement – Petition dismissed."

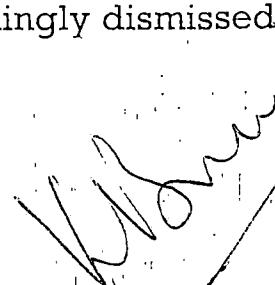
5. Be that as it may, the fact remains that the respondents have not been able to explain satisfactorily the following - The vacancies were meant for ST candidates, were these filled up by SC candidates; if so, was de-reservation sought for, as stipulated under the rules; whether the candidates selected on transfer/compassionate grounds candidates were also from reserved category? All these questions raise doubts which normally would have to be addressed by the respondents.

6. However, fact remains that we cannot open a selection which has already attained finality in the year 1995. Whether the posts filled on compassionate grounds were within the limit of 5% of the vacancies, meant for direct recruitment etc., now becomes irrelevant since a considerable time (almost 20 years) has already lapsed. Therefore, even if the applicant had a right to be considered at that time he has lost it on account of limitation. The

instant case, which states that once the selection has attained finality and decades passed, the relief prayed for by the petitioner cannot be granted. Same is the position here.

7. In view of above, we are unable to grant relief to the applicant after expiry of the panel which expired in the year 1995.
8. The OA and MA No.161/2011 are accordingly dismissed. No costs.


(PRAVEEN MAHAJAN)
Administrative Member


(DR. K.B. SURESH)
Judicial Member

R/