

14

CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR

**O.A. No. 520/2011**

Jodhpur this the 1<sup>st</sup> August, 2013.

**CORAM**

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)**

Vishnu Dutt Sharma S/o Shri Mewa Shankar Sharma Age  
56 years, R/o 8/62-63 Chopasani Housing Board, Jodhpur.  
Retired from the post of Head Clerk, Chief Workshop  
Manager, North-Western Railway, Jodhpur.

.....Applicant

**(Through Advocate Mr B.P. Rajpurohit)**

**Versus**

1. Union of India through General Manager (Personnel),  
North-Western Railway, Jaipur.
2. Chief Workshop Manager, North-Western Railway,  
Jodhpur.
3. Senior Personnel Officer, North-Western Railway, Jodhpur.

**(Through Advocate Mr Kamal Dave)**

..... Respondents

**ORDER (Oral)**

The present application has been filed under Section 19 of  
the Administrative Tribunals Act, 1985.

2. The short facts of the case are that the applicant Shri Vishnu  
Dutt Sharma was initially appointed as Clerk on 04.12.1978 and  
served the respondent-department upto 31.08.2010. The applicant  
took voluntary retirement from service w.e.f. 01.09.2010 due to  
family circumstances and medical reasons. Annual Performance  
Appraisal Report (APAR) of the applicant was written and  
submitted by the competent authority on 1.01.2010 in which it was

15

mentioned that applicant is mentally unfit. The applicant was not paid salary during the period he was under treatment and due to such medical leave; the applicant could not get benefit of promotion and also selection grade, which is applicable on completion of 30 years of service. The applicant served legal notice on 23.06.2011 and 19.07.2011 but the same is pending consideration and has not been decided by the respondent-department. Therefore, the applicant by way of this OA has sought following relief (s):

**"The Original Application filed by the applicant may kindly be allowed with cost, the letter dated 08.08.208, (Annexure A/1) may kindly be quashed and set aside, and the respondents may kindly be directed to refund the amount so recovered by way of Annex. A/1 and further they may be directed to consider the applicant for grant of selection grade and promotion on next higher post notionally and accordingly he be given all the consequential as well as monetary benefits"**

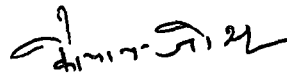
3. By way of reply the respondents denied the right of the applicant to get the amount recovered from the applicant and also contended that due to long absence of the applicant his annual grade increment was deferred and on account of such deferment certain amount remained due and the same was recovered from the applicant. It has been averred in the OA that Rs 36,484/- in the installment of Rs 960 x 38 was ordered to be recovered and further it has been averred that rest of the amount has been deposited in the account of the applicant. It is also averred that so far as promotion on the selection scale is concerned, the respondent-department denied the allegations averred in the OA.

2

4. Heard both the parties. Counsel for the applicant contended that the applicant filed representations/notice for demand of justice against the recovery of the amount of Rs 36,484/- but the same are pending consideration before the competent authority and have not been decided yet. The respondent-department in the reply has not denied this fact that those representations have not been decided.

5. Objection has been raised by the respondent-department for delay in filing the OA by the applicant. Since, payment or arrear is a continuous cause of action, therefore, the application filed by the applicant cannot be said to be barred by limitation.

6. Considering the contentions of the parties, I am going to dispose off this OA with certain directions. Accordingly, OA is disposed off with the direction to the respondent-department to decide the representations/notice for demand of justice dated 23.06.2011 and 19.07.2011 of the applicant, which are pending consideration, within 3 months from the date of receipt of this order. After deciding the said representations by the respondent-department, if any grievance remains to the applicant, he may file fresh OA, if he so desires.



(JUSTICE K.C. JOSHI)  
JUDICIAL MEMBER