

Central Administrative Tribunal
Calcutta Bench

0A/593/97

Date of Order: 30/4/03

Present:

Hon'ble Mr.S.Biswas, Administrative Member
Hon'ble Mr.A. Sathath Khan, Judicial Member

Sunil Kanti Rakshit *Applicant*

- Vs. -

Union of India represented by The General Manager of the Eastern Railway having head quarter office at Fairlie Place, Calcutta-1
Respondent

For the applicant : In person

For the respondent : Mr.R.K.De, Counsel

O R D E R

S.Biswas, AM

The applicant had statedly made an appeal on 31-1-1986 impugning the seniority list of 1972 (1-5-1972) as indicated in his appeal (Annexure B), and demand of justice - which is pending disposal by the respondent authorities.

2. The case is taken up for decision as the applicant personally appeared and pleaded that the case be decided on the basis of his written submissions. He also appealed that the delay in filing the said appeal dt. 31-1-1986 be condoned as he was suffering and not keeping well for a very long period. He reminded vide his further letter dated 9-9-92, 14-9-92 and a demand of justice dt. 3-3-97.

3. The appellant's case is that the respondent authorities reorganised the Punch Room w.e.f. 1-5-1972 in which he was one of the senior most as a compilation officer being recruited in 1948. Despite in the reorganised Punch

Room seniority list dated 1-5-72, his serial number is 20, whereas others who were appointed later than he had been placed above him. The appeal dt.31-1-86 was accordingly made but, not disposed of despite reminders.

4. The respondent has vehemently contested the OA on the ground of limitation stating that the said reorganisational seniority list was published as early as on 27-2-1972 as shown in the annexed list itself and the said appeal was only statedly filed in 1986 i.e. clearly after 14 years of publication, even the lawyer's notice has been filed after 10 years of the appeal dated 31-1-86. The said appeal has been disowned by the respondent authorities on the ground of nonjoinder of necessary parties and limitation.

5. We have considered the OA. The appeal dated 31-1-86 was submitted for correction of seniority list as on 1-5-72 issued on 5-5-72. The said appeal against the seniority list was made as late as on 31-1-86 when the applicant retired from the service.

6. The respondent authority has contended that the Punch Room Organisation was formed on 28-3-70 which necessitated the issue of a separate seniority list. The applicant joined the post of Punch/Verification Operator on 1-5-72. Prior to that he was a substitute clerk w.e.f. 8-10-1948 - confirmed as clerk Gr.II on 15-11-1958 posted as clerk Gr.I w.e.f. 1-2-1968 and confirmed on 2-7-1970. After he joined as Punch/Verification Operator w.e.f. 1-5-1972 (Rs.130-300+15 spl. pay) as per III P.C. his pay was fixed at Rs.464 + 20 spl. pay in the new scale of Rs.330-460. The applicant was promoted as Head Punch Operator in the scale of Rs.425-700 w.e.f. 10-3-85 and further promoted to the post of Console Operator - the scale of Rs.550-700 on ad hoc basis



for a period of six months and his pay was fixed at Rs.630 w.e.f. 21-8-85 while retiring on 31-1-86 he was on ad hoc promotion w.e.f. 21-8-85.

7. The applicant has challenged the seniority list as on 1-5-72 which contains the position of his promotion as clerk/operator Gr.I (Scale 130-300) on 1-2-68 and confirmation on 2-7-70 - though he retired in a much senior post of Console Operator in the scale of Rs.550-700 (ad hoc).

8. We cannot help observing ~~the~~ fact ^{that the} seniority list ~~was~~ published after holding a punching aptitude test as admitted by the applicant himself in his appeal dated 31-1-86. The said seniority list on the very face of it does not show any illegality as none ^{above him} ~~who~~ were promoted to the Gr.I Clerk/or Gr.I ~~not~~ ^{was} later than the applicant i.e. later than 1-2-68 and who ^{are now} ~~were~~ senior to the applicant. Besides, for computation of the period of service as done in column 8 thereto, only serial no.2 one A.S.Dutta has got 2 years 8 months and 26 days service vide this ~~and want~~ ^{and want} above the applicant but, said A.S.Dutta was originally senior to him in any case. By promotional date all others were promoted before the applicant. Therefore, in our considered opinion, there is nothing illegal in the said seniority list which can be *prima facie* held to have gone against the applicant or caused any civil damage to him. The clarification of the respondent authority only shows that the applicant got all other service benefit, ~~therefore~~, ^{and} without any demur or recorded objections.

9. The application is hit by limitation inasmuch as no explanation for the delay as alleged by the respondent was given in the application which was on the contrary stated as in time.

10. The incident challenged in the appeal dated 31-1-86 was to have been appealed soon after issue of the seniority

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list in 1972 i.e. about 14 years back. Even the lawyer's notice is given 10 years thereafter, we find no justification to condone all these and also find no merits in the appeal.

11. Consequently, the OA is dismissed on both counts. No costs.



A. Sathath Khan,
Judicial Member.



S. Biswas,
Administrative Member.

pd.