

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A.1147 of 1997

Date of Order: 29.06.2004

PRESENT : HON'BLE MR. NITYANANDA PRUSTY, JUDICIAL MEMBER
HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER

MR. C. GOMES
VS.
UNION OF INDIA AND ORS. (S.E.Rly.)

For the Applicant : Mr. B. R. Das, Counsel
Mr. B.P. Manna, Counsel
For the Respondents : Mr. K.C. Saha, Counsel

O R D E R

MR. NITYANANDA PRUSTY, JM:

The applicant who was earlier working as Assistant Guard at Adra in South Eastern Railway and retired on 31.5.1997, has filed the present application for the following reliefs:-

- "i) Consider promotion of the petitioner with effect from 28.8.1991(if not earlier) vis-a-vis Proforma Respondents to the post Goods Guard in the scale of pay of Rs.1200-2040/- (RP) with all consequential benefits and for all intents and purposes;
- ii) Amend, modify and/or revise the order being Annexure-'AI' by way of recalculation and recasting of retiral dues on the basis of fixation of pay in the promotional post of Goods Guard and the last pay as on 31.5.1997;
- iii) Pay all the arrears on account of reliefs(i) and (ii) above with an interest as deemed just and proper, forthwith;
- iv) Certify and transmit the entire records and papers pertaining to the applicant's case so that after the causes shown thereof concessionable justice may be done unto the applicant by way of grant of reliefs as prayed for (i) to (iii) above;
- v) Pass any furhter order/ orders as to your Lordships may seem fit and proper."

2. As such the main prayer of the applicant in this O.A. is for consideration of his case for promotion to the post of Goods Guard in the scale of pay of Rs.1200-2040/- (RP) w.e.f. 28.8.1991.

3. Heard Mr. B.R.Das, leading Mr. B.P.Manna, 1d. counsel for the applicant and Mr. K.C. Saha, 1d. counsel for the respondents.

4. Considering the submissions made by 1d. counsel for both the parties, we are of the considered view that since in this O.A. the applicant has prayed for promotion to the post of Goods Guard w.e.f. 28.8.1991 and this application has been filed on 01.10.1997, the present application cannot be entertained by this Tribunal at this stage, since the same is hopelessly barred by limitation. The applicant has not also filed any separate application for condonation of delay, explaining the days of delay in filing the present



O.A. properly.

5. The Hon'ble Apex Court in a number of decisions also observed that each day of the delay in filing the application for certain reliefs has to be explained by the applicant while approaching a court for redressal of his grievances. It is also well settled that unless and until the delay in filing an O.A. is condoned, the Tribunal cannot be considered dispose of the said O.A. on merit.

6. Mr. Das, Ld. counsel for the applicant submits that since it is a case of promotion which the applicant ought to have got during the tenure of his service, specially when his juniors were promoted one by one while they were in service, the cause of action is a continuous cause of action and the application cannot be rejected on the ground of limitation.

7. However, considering the submissions made by ld. counsel for both the parties and keeping in view of the fact that the applicant remained silent for such a long period since 28.8.1991, when his juniors were promoted to the post of Goods Guard the applicant did not challenge their promotion ~~when~~ ^{- and -} the concerned parties were very much in their respective services, within the prescribed period as per Rules and filed this application after a long lapse of six years from the date of initial cause of action, this O.A. cannot be entertained at this stage since the same is hopelessly barred by limitation.

8. In view of the position as indicated above the O.A. is dismissed. No order as to costs.

9. However, considering the further submissions made by ld. counsel for the applicant praying for leave on behalf of the applicant, to approach the appropriate departmental authority for redressal of his grievances in accordance with law, we are not going to say anything on this submissions made by the ld. counsel for the applicant, since an aggrieved employee can always approach his higher authorities for redressal of his grievances in accordance with law, for which leave of a court/tribunal is not required.



MEMBER(A)



MEMBER(J)