

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 66 of 2002

Monday, this the 21st day of June, 2004

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HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

1. T.K. Balasubramanian,
Staff No. J/M-2072,
Train Ticket Examiner (TTE), Kannur,
Southern Railway, Palghat Division.Applicant

[By Advocate Mr. P. Sanjay]

Versus

1. Union of India represented by Secretary,
Ministry of Railways, Rail Bhavan,
New Delhi.
2. The Divisional Personnel Officer,
Divisional Office, Southern Railway,
Palakkad.
3. Sri. C. Balasubramanian,
Train Ticket Examiner (TTE),
Southern Railway, Palghat Division.Respondents

[By Advocate Mr. P. Haridas]

The application having been heard on 21-6-2004, the
Tribunal on the same day delivered the following:

O R D E R

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The applicant, who commenced service as a Khalasi and was promoted as Fire Mechanic, was consequent on dieselization rendered surplus and given alternative job as Ticket Collector on 9-12-1982 as per order dated 26-11-1982. He was thereafter promoted as Train Ticket Examiner (TTE) with effect from 30-4-1985. In the seniority list of TTEs published on 23-7-1990 (Annexure A1) his name was placed at Sl.No.115. In a subsequent seniority list published on 3-5-1994 also the applicant's name was placed at Sl.No.8, while the 3rd respondent was placed at Sl.No.23. However, in purported

implementation of the judgement of the Tribunal in OA.No.1710/93, a revised seniority list was issued as per Annexure A3 in which the applicant was placed at Sl.No.77, while the 3rd respondent, who had all along been placed as junior to the applicant, has been placed at Sl.No.38. Alleging that the representation submitted by the applicant on 12-2-1995 objecting to the revised seniority was not responded to and that his further representation (Annexure A5) dated 14-5-2001 remains totally ignored, the applicant has filed this application seeking to set aside Annexure A3 seniority list and for a direction to the respondents 1 and 2 to publish the final seniority list by placing the applicant above the 3rd respondent and to revise the same in accordance with the directions contained in Annexure A6 judgement with consequential benefits to the applicant.

2. Respondents in their reply statement contend that the application is barred by limitation as the applicant is seeking to have the seniority list issued in the year 1995 set aside in this application filed in the year 2002, that the allegation that the applicant submitted representation Annexure A4 is false as such a representation has not been received by the respondents from the applicant within the time stipulated in Annexure A3 seniority list, that persons similarly situated like the applicant had submitted their objections to the revision, that the representations were disposed of as per Annexure R1 to R4 orders explaining that the seniority had been fixed strictly in accordance with the judgement of the Tribunal as also the provisions contained in paragraph 302 and 303(a) of the Indian Railway Establishment Manual, which stipulate that persons who had passed the examination earlier and placed in an earlier panel should enbloc be placed seniors to those who have been empanelled in a subsequent panel and passed the

examination later and that as the 3rd respondent was empanelled earlier, the placement in the seniority list is perfectly in order.

3. We have carefully gone through the pleadings and materials placed on record and have heard the learned counsel on either side.

4. The original application was admitted leaving the question of limitation open to contest. Although the respondents in their reply statement have categorically denied to have received any representation against Annexure A3 seniority list from the applicant in time, the applicant has not produced any evidence to show that he had within the time stipulated actually filed Annexure A4 representation. Even assuming that such a representation had been filed by the applicant objecting to the placement, if he did not get any reply for a period of six months, he should have challenged the wrong placement in the seniority list within the period of one year. Therefore, we have reason to come to the conclusion that the contention of the respondents that they did not receive any representation of the applicant within the stipulated period is true because the representations received from similarly situated persons like the applicant had already been disposed of by Annexure R1 to R4 orders and had the respondents received Annexure A4 representation from the applicant the same would also have been disposed of.

5. The applicant is now challenging the seniority list Annexure A3 issued on 30-1-1995 in an application filed in the year 2002 much beyond the period of limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985. Therefore, the application does not cross the threshold of

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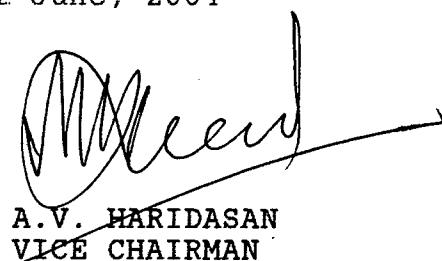
maintainability. Since the application cannot be entertained because of bar of limitation, we are not going into the merits of the rival contentions.

6. In the result, the Original Application is dismissed as barred by limitation. No order as to costs.

Monday, this the 21st day of June, 2004

H. P. DAS

ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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