

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 120/2005

Friday, this the 24th day of June, 2005.

CORAM:

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN
HON'BLE MR K.V.SACHIDANANDAN, JUDICIAL MEMBER

M.Balakrishnan,
Retired Chief Inspector of Works/
Sr. Section Engineer,
Southern Railway, Calicut,
Now residing in "Priya",
Bungalow Road, P.O. Nallalam,
Calicut - 673 027,
Kerala State.

Applicant

By Advocate Mr K.Padmanabhan

vs

1. Sr. Divisional Personnel Officer,
Southern Railway,
Palghat.
2. Union of India represented by
General Manager,
Southern Railway,
Chennai.

Respondents

By Advocate Ms. P.K. Nandini

The application having been heard on 24.6.2005, the Tribunal on the same day delivered the following:

O_R_D_E_R

HON'BLE MRS SATHI NAIR, VICE CHAIRMAN

The applicant in this O.A. was working as Chief Inspector of Works, Southern Railway and retired on 31.8.86. His prayer is for refixation of his pension on the ground that junior to the applicant was given adhoc promotion which resulted in his junior drawing more pay than

him. It is submitted that he had made representations before the Pension Adalat which has now been rejected by the impugned orders A-5 and A-6 on the ground that records are not available at this point of time.

2. Respondents have filed a reply statement stating that the O.A. is barred by limitation since the applicant retired from service in the year 1986. His claim for in charge allowance pertains to the period 1961 to 1962 and adhoc promotion relates to the year 1981. The applicant submitted a representation only on 20.10.2004 and he was informed that his request cannot be considered at this distance of time. He had earlier approached Pension Adalat in 1996, 2002 and 2003 and the same reply was given to him. Now he cannot revive the cause of action through this application.

3. Learned counsel for the applicant submitted that the applicant had been representing continuously and it is the responsibility of the Department to maintain the records. They cannot take the plea of nonavailability of records. Learned counsel for the respondents stated that there is a period of retention of records and since the applicant is approaching after a lapse of 20 to 40 years, the Department cannot be faulted for not keeping the records.

4. We have heard the counsel on either side. It is an undisputed fact that the applicant has retired on 31.8.86 and his first representation to the respondents is only in 2004. Even if his representation before the Pension Adalat is taken into account, he had approached them only as late as 1996. If considered from the date of retirement, the delay is about 20 years and if computed from the date of cause of action, the span of

delay is 20 to 40 years. The Apex Court has held in Bhoop Singh vs. Union of India and others JT 1992 (3) SC 322):

"..Inordinate and unexplained delay or latches is by itself a ground to refuse relief to the petition.."

Thus in the light of the law as well as on facts, we find that the O.A. Is hopelessly barred by limitation and hence dismissed. No order as to costs.

Dated, the 24th June, 2005.



K.V.SACHIDANANDAN
JUDICIAL MEMBER

Sathi Nair
SATHI NAIR
VICE CHAIRMAN

trs