

Central Administrative Tribunal, Lucknow

Bench, Lucknow

Original Application No.44/2005

This the 6th day of April, 2005

HON'BLE SHRI M.L. SAHNI, MEMBER (J)
HON'BLE SHRI S.C. CHAUBE, MEMBER (A)

1. Anup Kumar Srivastava, son of late Sri J.P.Srivastaa
2. G.S. Saggu, son of late Sri M.S. Saguu
3. S.N. Dubey son of late R.D. Dubey
4. Narendra Kumar son of Sri Puttulal
 (All applicants working as Junior Engineer (II)
 in the Signal and Telecommunication Department of
 Northern Railway, Lucknow)

Applicants

By Advocate: None

Versus

1. Union of India, through General Manager,
 Northern Rilway Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,
 Hazratganj, Lucknow.
3. Senior Divisional Personnal Officer, Northern
 Railway, Lucknow.
4. V.P.Bajpai, s/o Sri J.P. Bajpai
5. V.K.Srivastaa son of Sri Shatruhan Lal
6. Anil Kumar Bajpai son of Sri R.M. Bajpai
7. Lurkhur Ram son of Sri Mahabali
8. Zafrul Hussain son of Sri Mohd. Mohis
9. Sree Ram Meena son of Sr. D.R. Meena.

No.4 to 9 all opposite parties are working as
 Junior Engineer (I) in the Signal and



Telecommunications Department of Northern Railway,
Lucknow.

Respondents

By Advocate: Sri Arvind Kumar.

ORDER

BY HON'BLE SHRI M.L.Sahni, MEMBER (J)

All the four applicants of this O.A. are working as Junior Engineer (II) in the Signal and Telecommunication Department of Northern Railway, Lucknow. They have filed this O.A. against their non-promotion to the post of Junior Engineer (I) and not placing them over and above respondent No. 4 to 9 (herein after referred to as Private Respondents) in the seniority list of Junior Engineers (I). The applicants submitted representation dated 7.6.2000 for fixing of their seniority on the post of Junior Engineer (II) vis-à-vis Pvt. Respondents. It is alleged that the said representation is still lying undecided on the part of the official respondents. Accordingly following relief inter-alia have been prayed:-

Re-fixing of seniority of the applicants by placing them over and above Pvt. Respondents in the grade of Junior Engineer (II) and to promote the applicants to the post of Junior Engineer (I) from the date pvt. Respondents have been promoted to the post of Junior Engineer(I) and also to fix their seniority further qua the Pvt. Respondents.

2. The O.A. is also accompanied with an application M.A. No.2001/2004 whereby applicant No. 2 filed his affidavit on his own behalf and on behalf of other applicants prayed for condonation of delay in filing the O.A. in the facts and circumstances as stated in the affidavit. These briefly stated are that applicants came to know of the promotion of the private respondents only when the applicants enquired about restructuring of Group 'C' and 'D' post in pursuance of the guidelines issued vide order dated 1.4.2004 and that applicants made enquiry and learnt that pvt. Respondents have also been promoted to the post of Junior Engineer (I) having thereby impliedly rejected their representation dated 7.6.2000 and hence they have filed the present Original Application after lapse of limitation period.

3. The respondents who have filed their short counter reply as well as reply to the application for condonaiton of delay, have submitted that applicants who were promoted on 28.1.1998,never claimed retrospective promotion from the date earlier to the date of promotion of the pvt. Respondents made in October, 1997. Therefore, the applicants have no right to claim parity with candidates who had been promoted earlier to them. It is also stated by the respondents that representation dated 7.6.2000 of the applicants was itself preferred at belated stage and have failed to show any cogent and valid reason for filing the O.A. in the year 2005 for fixation of

their seniority over and above the persons who had been selected in October, 1997. According to them any alleged representation of June, 2000 does not entitle them to seek any relief in this O.A. Similarly their contentions are with regards to merit stated in the Short Counter Reply whereby they have submitted that the O.A. is not only barred by limitation, it is also otherwise not maintainable because through the O.A., applicants have sought for plural reliefs which are not permissible in the eyes of law.

4. The case was being listed for admission but none appeared on behalf of the applicants, earlier on 30.9.2004, 2.12.2003, 3.1.2005 and 3.3.2005 again none has appeared on behalf of the applicant today. Learned counsel for respondents has been heard, according to him the O.A. being admittedly time barred, is not maintainable and that the applicants have failed to show any valid and cogent reasons for not filing Original Application within time, he accordingly submitted that the O.A. can be disposed off on the basis of preliminary issues raised in the counter reply.

5. We have thoughtfully considered the pleadings of the parties and have examined the contentions of the learned counsel for respondents.

6. The applicants by filing M.A. No.2001/2004 have admitted that the O.A. is time barred and the

reasons stated in the affidavit of applicant No. 2 are not capable to satisfy us as to why the applicants have approached the Tribunal after the expiry of limitation period. The applicants have failed to show any just cause for approaching the Tribunal after lapse of long period because by way of the present O.A. , they have been challenging the seniority and promotion of pvt. Respondents who according to the respondents have been promoted in the month of October, 1997. The applicants were promoted on 28.1.1998 i.e. after the promotion of the pvt. Respondents. They were well aware of the seniority and promotion of the pvt. Respondents and their alleged representation of 7.6.2000 was also time barred and hence by no stretch of reasoning could have extended the period of limitation already expired in their case. Their plea of knowledge as stated in the affidavit for condonation of delay in 2004 is believe worthy as they made the representation in June 2000 about the promotion of the pvt. Respondents.

7. We are of the considered view that the O.A. is time barred as the applicants have failed to show any valid and just cause for not filing the O.A. within time prescribed for limitation. Accordingly we dismiss the O.A. being time barred . No order as to costs.


(S.C. Chaube)

Member (A)

HLS/-


(M.L. Sahni)

Member (J)