

(PW)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH AT LUCKNOW.

\*\*\*\*\*

Registration (O.A.) No. 1 of 1990 (L)

Nand Kishore Srivastava .... Applicant.

Versus

Union of India & others .... Respondents.

\*\*\*\*\*

Hon'ble Justice K. Nath, V.C.  
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K. Nath, V.C.)

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for a direction to fix the applicant's seniority as Permanent Way Mistri (PWM) and thereafter as Permanent Way Inspector (PWI). It is also prayed that the applicant may be directed to be promoted as PWM retrospectively from 1970 and PWI retrospectively from 1976.

2. The case, as set up in the application, is that having entered into the service as a Gangman in 1956 under the PWI, Northern Railway, Barabanki, he along with others were sent for a course of training from 2.6.1969 to 1.11.1969 for promotion to the post of PWIs. He failed and some others of his batch also failed. The applicant's case is that thereafter he was not given again for a training and test, while others, who had failed along with him, were sent for training and been declared successful were promoted in

3. It is further said that in the year 1981 the applicant was again called for training to be followed by a test and having attended the training he was declared passed in 1982. On this basis the applicant's claim is that he should be treated to be promoted as PWM from 1970 and PWI from 1976, when others belonging to his batch and having failed with him were ultimately successful after being able to ~~avail~~ an opportunity of training and test thereafter.

4. This petition was filed on 1.1.1990. The plain question is whether this claim can be considered to be within the period of limitation prescribed by the law? The learned counsel for the applicant says that the failure of the respondents to send the applicant for training is a lapse on the part of the respondents for which the applicant could not suffer. We do not know what the respondents could say to this case, but assuming it to be so, the silence of the applicant over all these years for the alleged failure of the respondents to send the applicant again for training stands in the way of a remedy which he could get in respect of his alleged rights. After all in 1981 he was sent for training and declared successful in 1982. Not only it should have been necessary for the applicant to raise a grievance when in or about the year 1970 his other colleagues were called for training and he was ignored, but even after he had been called in the year 1981, he should have raised a grievance. It is only about 7 or 8 years after he was declared successful at the training test for PWI that he has approached the Court of Law for redress.

11  
-: 3 :-

5. The earliest representation, which the applicant claims to have made in this respect, is of the year 1988 (Annexure '9', dated 30.5.1988). We do not think that the applicant may be permitted to open this kind of stale cases. The petition is accordingly dismissed in limine.

*AMAN*  
~~MEMBER (A)~~

*Sh*  
VICE-CHAIRMAN.

Dated: February 26, 1990.

PG.