

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 389 of 1986

R.L.Singh and others

Applicants.

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K.Obayya, Adm.Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

This application has come for hearing after the judgement in this application has been recalled in the Review Application.

2. The applicants, 11 in No. approached this Tribunal, praying that the promotion order dated 31.7.86, so far as it relates to the promotion of respondents nos. 5 to 15 ~~be~~ from Refrigerator Mechanic to Refrigerator Mechanic Highly skilled grade II w.e.f. from 15.10.84 be quashed and the respondents be directed to give promotions of applicants from Refrigerator Mechanic to Refrigerator Mechanic highly skilled grade II in accordance with the seniority list with effect from 15.10.84.

2. The case of the applicants is that they were working as Refrigerator Mechanics and in the seniority list of 29.11.85 they were shown senior to respondents 5 to 15 but on 31.7.86 the respondents 5 to 15 were promoted to the post of Refrigerator Mechanic highly skilled grade II ignoring the applicant's claim who were senior to them.

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3. The applicants' claim has been contested by the respondents stating that the seniority list dated 29.11.85 was revised on 17.7.1986 and it was duly displayed on Notice Board. The applicants were transferred from another zone and the respondents belong to same zone so the applicants could not claim seniority over the respondents. Thus 23 persons including respondent Nos. 5 to 15 and the applicants 2, 6 and 9 were promoted and other persons lost their seniority and they were not promoted, after leaving their zone.

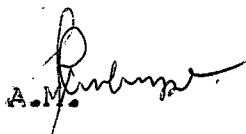
4. Earlier reliance was placed on a circular dated 13.9.87 but in the review it was found that the said circular was not applicable but it is the subsequent circular of 8.10.86 which is applicable. The said circular reads as follows:

"Since the seniority of industrial personnel for the purpose of promotion/confirmation is enrolled at the CWE area, the individuals seeking transfer on compassionate grounds from one CWE area to another CWE area whether within the same zone/ command or outside zone/command are not entitled to the benefit of previous service for the purpose of promotion/confirmation. An individual seeking transfer on compassionate grounds will be assigned seniority only from date he reports from duty in the new formation. In order to avoid representation at a later stage, an undertaking to this effect may be obtained from the individual before he

applies for transfer on compassionate grounds.
These instructions will be applicable w.e.f.
16 Dec '85 onwards."

5. We do not find that there is any substantial variation in the two circulars. These applicants were transferred to other zone on their request and they belong to the other zone, as seniority of industrial personnel for the purposes of promotion/confirmation is controlled at the CWE area, the individuals seeking transfer on compassionate grounds are not entitled to the benefit of previous service for the purpose of promotion/confirmation.

6. Thus the applicants have wrongly claimed seniority. The circular on which reliance was placed earlier was in the same terms on which reliance has been placed now and there is no change in the same. We hold that the applicants have no case and the applicant cannot claim seniority over the respondents and accordingly no interference is called for in the order and the application is rejected. No order as to costs.


A.M.


V.C.

Shakeel/-

Lucknow: Dated: 27.11.92.

(COPY)

Tele Mil: 2650

Office of the Chief Engineer
Lucknow Zone,
Lucknow-226002

24 Sep 89

12085+/POL/370/EIC (2)

Commanders Works Engineers

Allahabad

Kanpur

(P) A/F Chakeri, Kanpur- 8

(P) Lucknow

Rangarh

TRANSFER ON COMPASSIONATE GROUNDS INDUSTRIAL PERSONNEL

1. Reference this office letter No 12085+/Pol/276/EIC (2) dated 23 Oct 86 and your confirmation thereto.
2. E-in-C's Branch, Army HQ letter No 79040/RPOS/EIC (1) dated 25 Aug 89, is re-produced below for your further action:-
" In view of the judgement issued in writ petition No CA/325/86 and 326/86 by CAT Jaipur Bench on 29 Dec 87, this HQ letter No 79040/RPOS/EIC (1) dated 08 Oct 86 is treated as "invalid".
Authority:- CE CC Lucknow letter No 915100/Policy/50/207/EIC (2) dated 07 Sep 89.
3. Please acknowledge receipt.

Sd/ X X X X X
(Raghubir Singh)
AO II
for Chief Engineer

CERTIFIED TRUE COPY

MP Sinha
(MP Sinha)
AO II
for Commander Works Engineer

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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Review Application No. 19 of 1988

IN

Registration (O.A.) No. 389 of 1986

R.L. Singh & others

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Applicants.

Versus

Union of India & others

....

Respondents.

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

(By Hon. Justice K. Nath, V.C.)

We have heard Sri O.P. Gupta for the applicant and S/Sri K.C. Sinha & Rakesh Verma for the respondents.

2. A preliminary objection was raised by Sri K.C. Sinha that this application of review is barred by limitation and it is not permissible to condone the delay beyond the prescribed thirty days' limitation under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987. According to the learned counsel for the applicants, ^{they were} ~~we are~~ not aware of the judgment and that they filed this petition within time after receipt of a certified copy of the judgment. It has been held by a Full Bench of this Tribunal in Nand Lal v. U.O.I. (1989 (10) ATC 113) that limitation for the purposes of Rule 17 commences from the date of communication of the order and that delay may be condoned if sufficient cause is shown. In the circumstances, the objection on the question of limitation is unsustainable.

3. On merits of the review application, the learned counsel for the applicant has correctly placed reliance on a circular dated 8.10.1986, contained in Annexure 'I' to the review application, which says that an earlier circular No.79040/RPOS/DIC (I) dated 19.3.1986 was to be treated as cancelled. The judgment sought to be reviewed

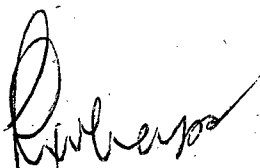
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rests on the circular dated 13.6.1986, which is Annexure 'I' to the written statement of some of the respondents. It appears that there is some mistake in the correct date of this circular. The number of the circular in both the Annexures, however, is the same. The judgment was delivered on 19.1.1988, i.e. long after the issue of the revised circular dated 8.10.1985.

4. In the circumstances, there is sufficient ground for review of the judgment. The judgment dated 19.1.1988 in O.A. No. 389 of 1986 is, therefore, set aside and the said O.A. is restored and is directed to be listed for final hearing on 16.8.1990.


MEMBER (A).


VICE-CHAIRMAN.

Dated: May 11, 1990.

PG.