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CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH

O.A.No.310/91

monday this the 14th day of February, 2000

CORAM

HON'BLE MR. A.V. HARIDASAN VICE CHAIRMAN

HON'BLE MR. J.L. NEGI, ADMINISTRATIVE MEMBER

M.D.Tripathi, son of GP Tripathi  
resident of Quarter No.690  
Northern Railway Model Colony,  
Raebareli. ... Applicant

(By Advocate: None present)

Vs.

1. The Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The General Manager, Northern Railway Barodaa House, New Delhi.
3. Chief Workshop Engineer, Northern Railway, Baroda House, New Delhi.
4. The Divisional Railway Manager, Northern Railway, Lucknow. ... Respondents

(By Advocate Mr. A.K. Chaturvedi)

The application having been heard on 14.2.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant was appointed as Wireman Gr.III in the year 1966. In the year 1979 as a result of up-gradation, the applicant along with others including his juniors were called for trade test. As the applicant did not qualify in the trade test he was not promoted but his juniors were promoted. However, the applicant made a representation on 7.12.79 to the General Manager, Northern Railway. The applicant was thereafter promoted as Wireman Grade II with effect from 22.9.81. His juniors were promoted ahead of him as Wireman Gr.I. On 2.10.83 a

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Seniority list of Wireman Gr.II was issued in which the applicant's name was shown below ~~is~~, of his juniors Asok Kumar, R.V. Khare, Radhey Shyam and Rajkumar. The applicant made a representation to the General Manager, Northern Railway claiming the benefit of upgradation with effect from 11.6.79 and consequent seniority in the grade of Wireman Gr.II (Ann.3). It was thereafter that the applicant's erstwhile juniors Radhey Shyam and Rajkumar were given the benefit of Wireman Gr.II Rs.380-560 with effect from 11.1.84. The applicant again made a representation on 9.3.94 aggrieved by the alleged discrimination. The applicant was also given promotion as Wireman Gr.II by order dated June, 1986. However, in the Seniority List of Wireman Gr.III, II and I circulated on 26.3.91 the applicant has been shown below his erstwhile juniors. Therefore, he made a representation to the second respondent on 11.4.91 to assign him seniority in the gradation list dated 26.3.91 above his erstwhile juniors. That representation has not been considered and disposed of and that is why the applicant has come up with this application for a direction to the respondents to decide the representation dated 11.4.91.

2. The respondents have indicated in the reply statement that the application is ~~time~~ barred by limitation as also lack of jurisdiction for the Tribunal as the grievance of the applicant has arisen prior to 1st of November, 1982 and that as the applicant having failed in the trade test

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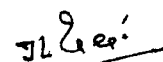
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and not been promoted as Wireman Gr. ~~III~~ in the year 1978 and was promoted as such only in the year 1981 has ~~because~~ junior to the persons mentioned in the application thereafter in ~~all~~ the grades and therefore, he is not entitled to the reliefs as prayed for.

3. When the application came up for hearing none appeared for the applicant. We have perused the pleadings and materials on record and heard Shri A.K.Chaturvedi, learned counsel for the respondents. We find that the applicant himself has admitted that in the year 1979 he did not qualify in the trade test and therefore persons junior to him were promoted as Wireman Gr. II as also as Wireman Gr. I. ahead of him. The grievance arose in 1979. He was aware of the position when the seniority list was published in the year 1983 as admitted by him. Since the applicant has been superseded in the year 1978 he naturally would be junior to those who were promoted ahead of him. The settled position of seniority cannot be sought to be unsettled by a person who has not been vigilant of his right, <sup>if any</sup> In this case even on merits, the applicant does not have a case because his juniors were promoted as Wireman Gr. II in the year 1978 ahead of the applicant because he did not qualify in the trade test.

4. Finding no merit in this application, we dismiss the same leaving the parties to bear their costs.

Dated the 14th day of Feb. 2000

  
J.L. NEGI  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

s.