

CENTRAL ADMINISTRATIVE TR PUI AL: LUCKNOW PENCH.

LUCKNOW

ORIGINAL APPLICATION NO.373 of 1991.

Lucknow this the 19<sup>th</sup> day of May 1997.

HON'BLE MR. JUSTICE B.C. SAKSENA, VICE CHAIRMAN  
HON'BLE MR. V.K. SETH, MEMBER (A.)

BABOO LAL S/o Kanhai,  
Ticket No.177 Northern Railway, Char Bagh Sick Line,  
Lucknow  
R/o Tikri Julahan Saa dat ganj, Lucknow.

..Applicant

Versus

1. Union of India-through-  
Divisional Railway Manager,  
Northern Railway, Hazratganj, Lucknow.
2. Fakiray Painter Gr-I under CVS Charbagh,  
Sick Line, Lucknow.
3. Mohd. Hussain, Painter Gr-I Under C.V.S., Northern  
Railway, Faizabad.

..Respondents

For the applicant: Sri O.P. Rastogi, Advocate

For the respondents:Sri A.K. Chaturvedi, Advocate

C R D E R

B.C. SAKSENA, VICE CHAIRMAN

We have heard the learned counsel for the parties.

2. The applicant through this O.A. seeks a direction to the effect that he is senior to respondent no.2 & 3 and that he is entitled to benefits accruing from the date he passed the P.T. Test on 24.11.1964. In the O.A. the applicant has indicated that on 6.8.88 he was called for test for promotion as T X R along with the opposite parties 2 & 3. Though it has been pleaded by the applicant that in the seniority list dated 26.4.90 the applicant has been shown junior to the respondents 2 & 3 but, surprisingly the applicant has not sought any ~~substantive~~ relief for the quashing of the <sup>Substantive</sup> ~~order~~ <sup>order</sup>

the said seniority list. As a matter of fact, in view of the relief claimed by the applicant, the cause of action accrued on his allegedly having passed the B.T. Test on 24.11.64. The seniority list merely ~~presumed to~~ assigns seniority on the factual basis and the dates of promotion of the respondents 2 & 3.

3. In the counter affidavit filed on behalf of the respondents it has been pleaded that the applicant through the O.A. ~~is~~ is trying to reopen the issue already settled in the year 1972 & 74 and, therefore, the O.A. is barred by limitation. The respondents have, in their C.A. given details of the date of the promotion of respondents no.2 & 3 on the post higher than that of <sup>The applicant has filed a joinder b/w</sup> Safai Wala, <sup>junior to</sup> but he has not been able to controvert the specific averments made in the C.A. that the applicant became <sup>junior</sup> ~~senior~~ to respondents no.2 & 3 keeping in view their promotion as B.T. Painter. In view of the date of promotion, the said two respondents became senior to the applicant since 1972 & 1974.

4. In view of the above, the O.A. deserves to be dismissed and is accordingly dismissed on the ground of being highly barred by limitation. This Tribunal was constituted in the year 1985-86. The applicant is virtually seeking relief on the basis of his being ~~empanelled~~ in the 1964 test. He had not, admittedly, instituted any judicial proceedings for redressal of his grievance ~~based~~ and ~~having~~ denied the benefit of allegedly having passed the B.T. Test in 1964. The O.A. besides being highly belated lacks merit and is accordingly dismissed.

L K

MEMBER (A.)



VICE CHAIRMAN

Dated: Lucknow: May 12, 1997.

Narendra/