

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

ORIGINAL APPLICATION NO:673/87

1. Madhusudan Ramchandra Bapat,  
Station Superintendent's Office,  
South Central Railway,  
Miraj.
2. Madhukar Ramchandra Bapat,  
Station Superintendent's Office,  
South Central Railway,  
Miraj. ... Applicants.

Vs.

1. Divisional Personnel Officer,  
Divisional Railway Manager's Office,  
South Central Railway,  
Hubli.
2. General Manager,  
Rail Nilayam,  
South Central Railway,  
Secunderabad.
3. Sumanlal Motilal Gandhi,  
Deputy Station Superintendent,  
Station Master's Office,  
South Central Railway,  
Koregaon,  
Dist. Satara. ... Respondents.

Coram: Hon'ble Member (A) S.P. Mukerji.

Hon'ble Member (J) M.B. Mujumdar.

Appearance:

Shri V.N. Walujkar  
Advocate  
for the applicants.

TRIBUNAL'S ORDER:

Dated:5.1.1988.

Heard Mr. Walujkar, the Learned Advocate for the applicants and the applicant No.1 in person. The applicants were previously working as Assistant Station Masters. According to them, respondent No.3 Sumanlal Motilal Gandhi was also working as Assistant Station Master,

but he was junior to both of them. However, during the period from 1.1.1973 to 31.12.1976 he was allowed to work in the higher grade of Station Master on officiating basis. Due to this he got more increments and more pay than the applicants. Hence the applicants have filed this application on 21.11.1987 requesting that their pay should be brought on par with the pay of respondent No.3 with effect from 1.1.1973 with all further benefits.

2. During the course of arguments the applicant's advocate showed us a copy of the judgment of the High Court of Judicature at Bombay delivered on 17.4.1985 in Writ Petition No.5093 of 1984. The judgment shows that the present applicants had filed that Writ Petition for a similar relief. However, after hearing the applicants advocate, Mr. V.N. Kanitkar, the High Court rejected the Writ Petition with liberty to challenge, if so advised, the promotion of respondent 4 (Sumanlal Motilal Gandhi) to the higher post allegedly being made repeatedly in officiating capacity.

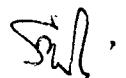
3. From the above judgment it is clear that the applicants are debarred from filing the present application for the same relief. Mr. Walujkar, Learned Advocate for the applicants, submitted that the applicants were not aware of the judgment of the High Court till they received a copy of the same recently. According to him the applicants were repeatedly approaching their previous advocate Mr. Kanitkar, but he was not telling the facts correctly about the disposal of the Writ

Petition. However, according to us that is a matter between the applicants and their advocate and that will not enable them to get rid of the High Court's decision in respect of the same relief.

4. We also find that the present application is hopelessly time bared. The applicants are praying that their pay should be brought on par with the pay of respondent No.3 with effect from 1.1.1973. The Writ Petition filed by them for the same relief was rejected by the High Court on 17.4.1985. In respect of the liberty given to them for challenging the appointment of respondent No.3 in officiating capacity from 1.1.1973, we may point out that the applicants did not approach this Tribunal within a reasonable time even for that relief. In the present application they have made the same prayer which they have made in the Writ Petition and nowhere they have challenged the appointment of Respondent No.3 in an officiating capacity.

5. Hence both on merits and on the point of limitation the applicants have no case. We, therefore, reject the application summarily under section 19(3) of the Administrative Tribunals Act, 1985.

  
(M.B. MUJUMDAR)  
MEMBER (J)

  
(S.P. MUKERJI)  
MEMBER (A)