

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No. 423/86.

Mr. V.G. Sharma,
Head Clerk,
Signal & Tele. Com. Department,
S.E. Railway,
Post: Gondiya - 441 601
Dist. Bhandara (M/S). .. Applicant

M/s

1. The Union of India
through the General Manager
S.E. Railway, Calcutta,
Represented by the Chief Personnel
Officer, South Eastern Railway,
Garden Reach,
Calcutta-43.
2. The Divisional Railway Manager
South Eastern Railway
NAGPUR
Represented by the Divisional
Personnel Officer, South Eastern
Railway, Nagpur .. Respondents.

Coram: Hon'ble Member (A) J.G. Rajadhyaksha
Hon'ble Member (J) M.B. Mujumdar

Appearances:

1. Applicant in person.
2. Mr. D.S. Chopra, Counsel
for the Respondents.

ORAL JUDGEMENT ¶ Per M.B. Mujumdar, Member (J) ¶ Dt. 27.2.87.

The applicant has filed this application on 12th November, 1986 under Section 19 of the Administrative Tribunals Act, 1985. The main prayer is for fixing his pro forma seniority and for granting him all the benefits on par with his two juniors i.e. (1) Shri R.R. Paul and (2) Shri K.C. Ponnann with effect from 1971.

We have just now heard the applicant in person and Mr. Chopra, the learned Counsel for the Respondents on the point of admission.

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It was stated by the applicant before us that he might have made about 50 to 60 representations to the Respondents since 1971 for fixing his seniority properly but the Respondents have sent only two replies. The first is dated 17.5.1977 which is at page 15 of the compilation and the second which is dated 25.10.1984 is at page 45 of the compilation.

After hearing the applicant, we do not find that the application is worth admitting. There is a judgment of the Jabalpur Bench of the Central Administrative Tribunal on the very point. It is in the case of B.A.Sarjare V/s The State, A.T.R.1987(1), CAT 158. The Jabalpur Bench has held in that case that when the applicant had approached the Tribunal after a lapse of 14 years and when during that period persons were being promoted, the Tribunal would not be justified in condoning the delay in filing the application. The Tribunal there relied on a judgment of the Supreme Court in P.S.Sadasive Swamy V/s. State of Tamilnadu, AIR 1974, SC 2271 in which it is held that it would be a sound and wise exercise of discretion for the court to refuse to exercise extraordinary powers under article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the court to put forward claims and try to unsettle, settled matters.

Regarding condonation of delay the Tribunal has taken the view there that "repeated representations on the applicant's claims for seniority since 1974 do not extend the period of limitation, soon after rejection of the

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first representation or appeal whatever it may be, when the limitation starts running, which cannot be stopped by action not provided under the prescribed rules of procedure."

The above judgment answers all the points which arise in this case.

The applicant submitted before us that the replies sent by the Respondents were evasive and unsatisfactory. But we find from the first reply dated 17th May, 1977 that the applicant was clearly informed that his seniority was correctly fixed after taking into consideration the length of service vis-a-vis others in the same grade. The second reply dated 25.10.1984 is more exhaustive in nature. The case of his so called juniors is also referred to in that reply. We, therefore, feel that the applicant should have approached the High Court or some other appropriate court within a reasonable time, at least from the first reply. Even if the second reply is taken into consideration, the present application is not within time because it is not filed within one year from the date of that reply.

We, therefore, hold that the application shall have to be rejected summarily. We reject it summarily u/s 19(4) read with Section 21 of the Administrative Tribunal's Act 1985, with no order as to costs.

(J.G. RAJADHYAKSHA)
Member (A)

(M.B. MUJUMDAR)
Member (J)