

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.167/1996

Dated this FRIDAY, the 4th Day of April, 2001.

Shri R.M. Mahajan ..... Applicant

(Applicant by Shri B. Ranganathan, Advocate)

Versus


UOI & Ors. ... Respondents

(Respondents by Shri S.C.Dhawan, Advocate)

CORAM

Hon'ble Shri B.N.Bahadur, Member (A),  
Hon'ble Shri S.L.Jain, Member (J)

- (1) To be referred to the Reporter or not? ✓
- (2) Whether it needs to be circulated to  
other Benches of the Tribunal? ✓
- (3) Library. ✓

  
(Shri B.N.Bahadur)  
Member (A)

sj\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

Original Application No. 167/1996

Dated this 4th Day of April 2001.

Coram: Hon'ble Shri B.N. Bahadur, Member (A)  
Hon'ble Shri S.L.Jain, Member (J)

Shri R.M.Mahajan,  
Khalasi No.J1945,  
Inspection Shop,  
Central Railway,  
Kalyan, Maharashtra.

.....

Applicant

(Applicant by Shri B. Ranganathan, Advocate)

vs.

1. The Union of India, through  
the Chairman, Railway Board,  
Rail Bhavan,  
New Delhi 110 001.

2. The Divisional Railway Manager,  
Central Railway,  
Mumbai V.T.

3. Sr. D.E.E. (TRS),  
Central Railway,  
Kalyan, Maharashtra.

.....

Respondents.

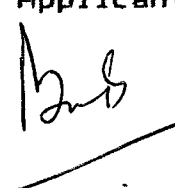
(Respondents by Shri S.C.Dhawan, Advocate)

O R D E R [ORAL]

[Per: B.N.Bahadur, Member (A)]:

The Applicant in this case, Shri R.M.Mahajan, comes up to the Tribunal seeking the relief that the Respondents be directed to regularise the Applicant from the date on which the person junior to him is regularised, and for the grant of consequential benefits including those of promotion. The Applicant also presses for benefits on the strength of the

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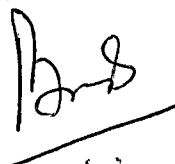


judgement made by this Tribunal on 2.5.1991 in O.A. No.945/88 in the case of *Shri Baloo Kadam*.

2. The facts of the case are in a short compass in that the Applicant states that he joined, as substitute ~~Khalasi~~ <sup>Khalasi</sup>, on 30.4.1979 and that some persons who were appointed later in the same capacity had been regularised in the year from 1983 to 1986. Learned Counsel for the Applicant argued his case on the basis of these facts and made the point that, in the first place, the decision of this Tribunal made in O.A.No.946/88 (copy provided at Annexure A.2) is clearly a judgement in rem, and benefits should have been provided according to him. He stated that Representations were made by the Applicant but these were rejected in 1995. In fact on the strength of this point of date of rejection, Learned Counsel for the applicant also seeks to defend the limitation.

3. The Respondents in their Written Statements, and arguments made by their learned Counsel, state their defence as follows (in short). The point regarding limitation is taken to start with and it is contended that the application suffers from delay and laches. It is also pointed out in para 9 of Written Statement that applicant was screened in 1982 and did not make the grade as also in 1984 when also he could not succeed. We were informed during arguments that Applicant has since been regularised in 1987.

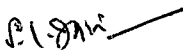
4. The facts of the case and the fact of delay and laches are really inter related. We first note the facts noted in para 9 of the Written Statement of Respondents. At that stage,




in 1983 and 1984, on two occasions, the Applicant had not made the grade. It is perfectly correct as contended by Respondents that he should have come up in grievance at that stage. The contention made by the learned Counsel for Applicant that he is saved from limitation because of the reply received by him in 1995 clearly does not help him. The ratio in the case of *S.S.Thakore vs. UOI* is relevant in this regard.

5. The contention taken by the Applicant that his case is covered for provision of relief in view of the judgement in O.A.945/88 also does not appeal to us. We have gone through this judgement carefully, and find that the relief has been provided in that case in the peculiar facts and circumstances therein. Certain records have been commented upon and infirmity is found and conclusions drawn. It cannot be inferred that this judgement should be considered a judgement in rem as argued by learned Counsel for Applicant. Also, it is to be noted that the Applicant in that O.A. came up to the Tribunal in 1988 being aggrieved of a cause of action of 1986. Here, in the present O.A. before us, the Applicant clearly is also hit by limitation, delay and laches also besides not having a case on merits.

6. In view of the above discussions, this O.A. fails and is hereby dismissed. No orders as to costs.

  
(S.L.Jain)  
Member (J)

  
(B.N.Bahadur)  
Member (A)