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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 791/96

Monday the 13th day January 1997

CORAM: Hon'ble Shri B.S. Hegde, Member(J)

Hon'ble Shri M.R. Kolhatkar, Member(A)

Vithhal Satwappa
Senior Trolley Man
Office of the Asstt. Engg.
18, Sasoon Road,
S.C. Railway, Pune.

... Applicant.

By Advocate Shri D.V.Gangal.

V/s.

Union of India through
The General Manager
South Central Railway
Rail Nilayam
Secunderabad (A.P.)

The Divisional Railway Manager
S.C. Railway,
Hoobly (Karnataka).

The Asstt. Engineer
18, Sasoon Road,
S.C. Railway
Pune.

Shri S. Narayanan
Permanent Rail Mistry
working under :
The Chief Permanent Way
Inspector, S.C.Railway
Ghorpadi, Pune.

... Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

¶ Per Shri B.S. Hegde, Member(J) ¶

Heard the learned counsel for the parties.

The respondents have filed the reply
stating that vide order dated 23.1.96 the seniority
position of the applicant was revised and he was
placed above Shri P. Lalsaib and below Shri Prahlad

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Narayan based on the Headquarters approval for proforma promotion on par with his junior of the earlier panel of 1994 and benefits of promotion will be extended to him accordingly.

In the circumstances, nothing survive in the O.A. in view of the submission made by the respondents in the reply. The respondents are directed to interpolate the name of the applicant above Shri P. Lalsaib of the panel of 25.2.94 and pay all consequential benefits. The O.A. is disposed of accordingly.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member(A)

B.S. Hegde

(B.S. Hegde)
Member(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.
CONTEMPT PETITION NO.24/99
IN
ORIGINAL APPLICATION NO.791/1996.

this the 25th day of August 2000.

Coram: Hon'ble Shri D.S.Baweja, Member (A),
Hon'ble Shri S.L.Jain, Member (J).

Vitthal Satwappa. ... Applicant.
(By Advocate Shri D.V.Gangal)

Vs.

1. Shri B.P.Singh,
Divisional Railway Manager,
South Central Railway,
Hubli,
Karnataka State.

2. Shri Sinha,
The General Manager,
South Central Railway,
Rail Nilayam,
Secunderabad,
Andhra Pradesh.
(By Advocate Shri V.S.Masurkar)

... Respondents.

: ORDER ON CONTEMPT PETITION :

(Per Shri D.S.Baweja, Member (A))

This Contempt Application (CA) has been filed against the order dt. 13.1.1997 alleging that the respondents have not implemented the order fully, as consequential benefits have not been allowed.

2. Notices are issued to the respondents and the respondents have filed their reply.

3. Heard Shri D.V.Gangal and Shri V.S.Masurkar, the learned counsels for the applicant and the respondents respectively.

4. It is noted that the CA filed on 4.5.1999 is barred by limitation. Against the order dt. 13.1.1997, a Miscellaneous Application (MA) had been filed for "speaking to minutes" and the MA disposed of as per the order dt. 29.4.1997 with a direction

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to the respondents to implement the order dt. 13.1.1997 within a period of four weeks from the date of receipt of the order. This order has been issued on 1.5.1997. Therefore, the respondents should have implemented the order by 30.6.1997. The present CA has been filed by the applicant on 4.5.1999. As per Section 20 of the Contempt of Courts Act, 1971, the limitation for action for contempt has been provided as under:

"No Court shall initiate any proceedings for contempt either on its own motion or otherwise after the expiry of the period of one year from the date of which the Contempt is alleged to have been committed."

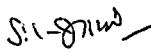
In the present case, the respondents were required to comply with the order within four weeks and since they failed to implement the order by the due date, the Contempt of Court was committed on 30.6.1997. Therefore, the limitation of one year will count from this date and the CA filed on 4.5.1999 is barred by limitation. When these facts were brought to the notice of the counsel for the applicant, the counsel for applicant contended that the CA is within the limitation period as the applicant is aggrieved by the order dt. 24.11.1998 by which the respondents have failed to allow the consequential benefits as laid down in the order dt. 13.1.1997. He, further contended that the cause of action is continuous as the respondents have denied the benefit and therefore the limitation will not apply. We are unable to accept the arguments advanced by the counsel for the applicant. The Contempt of Court arises from the date when the action should have been taken by the Respondents and not from the date when the respondents have taken action. It was the decision of the applicant to wait and allow the respondents to take action on the order at their own will. If the applicant alleges contempt of




the respondents then the matter should have been brought to the notice of the Court at the appropriate time. It is not the discretion of the applicant to decide and choose as to when he should allege that the contempt of court has been committed. It is further noted that the applicant has not made even any application for condonation of delay in filing the CA. Keeping in view these facts, we have no hesitation to hold that the present CA is barred by limitation.

5. The applicant, in the alternative has made a prayer that execution of the order may be made by the Tribunal. Even for the prayer for execution of the order under Section 27, the limitation will apply. One of the Benches of the Tribunal had rejected the application filed under section 27 as being barred by limitation. The matter was taken up before the Hon'ble Supreme Court in the case of Hukum Rai Khinvra Vs. UOI & Ors. (1997 SCC (L&S) 943). The Hon'ble Supreme Court has upheld the order of the Tribunal holding that the final order of the Tribunal is executable within a period of one year from the date of its becoming final, hence where an application seeking implementation of the Tribunal's order under Sec.27 was made beyond 2 years, the Tribunal rightly dismissed the application. Keeping in view the law laid down by the Hon'ble Supreme Court, even this prayer of the applicant is barred by limitation.

6. In the result of the above, the CA stands rejected as being barred by limitation. The Contempt notices issued on the respondents are discharged.


(S.L. JAIN)
MEMBER (A)


(D.S. BAWEJA)
MEMBER (A)

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