

1574

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 1046/96

Date of Decision: 2.5.97

S.R.Yadav

.. Applicant

Shri D.V.Gangal

.. Advocate for  
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri R.R.Shetty

.. Advocate for  
Respondent(s)


CORAM:

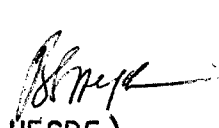
The Hon'ble Shri B.S.Hegde, Member (J)

The Hon'ble Shri P.P.Srivastava, Member (A)

(1) To be referred to the Reporter or not ? x

(2) Whether it needs to be circulated to  
other Benches of the Tribunal ?

  
(P.P.SRIVASTAVA)  
MEMBER (A)

  
(B.S.HEGDE)  
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

OA.NO. 1046/96

2nd this the 11th day of May 1997

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

Shankar Rajaram Yadav,  
R/at New Area Ward,  
Bhusaval, Dist. Jalgaon.

... Applicant

By Advocate Shri D.V.Gangal

V/S.

1. Union of India through  
The General Manager,  
Central Railway,  
Mumbai C.S.T.
2. The Divisional Railway  
Manager, Central Railway,  
Bhusaval.

... Respondents

By Advocate Shri R.R.Shetty  
C.G.S.C.

O R D E R

(Per: Shri B.S.Hegde, Member (J))

Heard Mr. Gangal for the applicant.

Mr. Ravi Shetty for the respondents.

2. In this OA. the applicant has challenged the impugned orders dated 1.10.1991 and 2.8.1991 Annexures 'A-1' & 'A-3' respectively and further seeks directions to the respondents that the applicant deserves to be appointed to any Group 'D' post, etc.

3. The main thrust of argument is that the applicant's name is kept in panel by the respondents vide their panel dated 28.1.1989 (Annexure-'A-2') wherein the applicant's name has been shown at Sr.No. 16. Though his name is kept in the panel, he is not

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~~has~~ appointed till now. The learned counsel for the applicant has submitted that the relevant <sup>Rule</sup> in Chapter-I Section-B sub-section IV(xii) of the Indian Railway Establishment Manual is regarding Recruitment of Group 'D' Railway servants and sub-section IV(xii) is regarding Panels which reads as under :-

" (xii) Panels :- The list of selected candidates will be pasted on important Notice Boards throughout the area of recruitment after each selection. The list will contain as many names as are likely to be needed against the bare anticipated vacancies in the course of six months or one year following the selection, depending on the frequency of recruitment, etc."

4. The respondents in their reply have stated that since the applicant is not a Government Servant as he is not in Government service as on date, he cannot approach the Tribunal for any relief. Though he is empanelled under the handicapped quota, out of the panel candidates only <sup>first</sup> 5 persons were appointed and the applicant was not appointed as he was at Sr.No.16 in the panel. The applicant is aggrieved by his non-appointment. This fact has already been informed vide their letter dated 2.8.1991 stating that the life of the panel has come to an end. The respondents further stated that "a letter dated 16.7.1991 was sent to Employment Exchange office to prepare and submit the names of the persons who are physically disabled, so that a list/panel of physically disabled persons can be made and if your name is included in the list prepared by Employment Exchange, then only we will consider the same. The letters which came directly from the candidates will not be considered."

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The respondents further submit that in any case the formation of the new panel dated 15.12.1992 has automatically brought the life of the former panel to an end in view of the procedure laid down by the Railways. The respondents submit that the applicant has no cause of action and the application requires to be dismissed with costs.

5. The applicant has impugned two letters of the respondents, one is 1.10.1991 wherein it is stated that the period of panel was completed on 21.6.1990 and therefore the same was cancelled and his appointment on the basis of the same panel is not possible. It is further stated that "your name has not been renewed in the employment exchange office thus your name cannot be found in the list prepared by them and for which act you are responsible. As your name does not exist on the list prepared by employment exchange office your appointment cannot be considered, etc."


6. In the light of the above, the only point to be considered is whether mere Empanelment in the panel does he get right to seek an appointment? Courts have held that mere inclusion in the panel does not confer any right to appointment, Empanelment is at the best, a condition of eligibility for purpose of appointment and by itself does not amount to selection or creating right to be appointed unless relevant rules state to the contrary. Since the applicant has already been informed as back as 1991 and the panel list indicates his name is in the panel year of 1989 and he has filed this OA. in 1996 after a lapse of 5 years, hence the OA. is clearly barred by limitation.

*Mr*

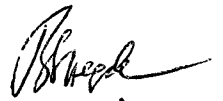
7. Though the applicant has filed a condonation petition but the reason advanced by the applicant for filing this belated OA. is not satisfactory and hence the condonation petition is hereby rejected. Further, a fresh panel has already been drawn in 1992 and all appointments have been made from the 1992 panel, thereby the panel of 1989 has become redundant. Further, it is noticed that mere empanelment does not give a right to appointment as is clearly held by the Courts. Since only 5 persons have been appointed out of 24 persons kept in the 1989 panel, no discrimination has been practised and further none of his juniors have been appointed.

8. Learned counsel for the applicant did not cite any decision during the time of hearing. However, after completion of hearing, the next day he came to my Chamber for submission of written arguments for taking on record. I have dictated the order on 15.4.1997 immediately after completion of hearing in the Chamber, despite the same, I had gone through the written submissions but we do not find merit in the submissions made by the applicant.

9. For the reasons stated above, in our view the OA. does not survive both on merit as well as on limitation. Accordingly, the OA. is dismissed with no orders as to costs.



(P.P.SRIVASTAVA)  
MEMBER (A)



(B.S.HEGDE)  
MEMBER (J)

mrj.