

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.698/1996

Dated this, the 11th day of December, 2001.

Smt. P. Fernandes, ... Applicant
(Applicant by Shri R.D. Doharia, Advocate)

Versus

UOI & Ors. ... Respondents

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

CORAM:

HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE SHRI S.L.JAIN, MEMBER (J)

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

(2) Whether it needs to be circulated to No.
other Benches of the Tribunal?

(3) Library. Yes

S.R.Adige
(S.R.Adige)
Vice Chairman (A)

s.j*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

O.A.No.698/96

Date of Decision: 11th December, 2001

CORAM: HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE SHRI S.L. JAIN, MEMBER (J)

Smt. Philomena Fernandes,
Age 58 years, "Ritiand" gr. fir.,
18, St. Paul's Road, Bandra (W)
Bombay. Pin. 400 050.
(Applicant by Shri R.D. Dcharia, Advocate)

.... Applicant

vs.

1. Union of India, through
the General Manager,
Central Railway,
Mumbai C.S.T. Pin 400 001.
2. The Chief Personnel Officer,
Head Quarters Office,
Central Railway,
Mumbai C.S.T. Pin 400 001.
3. Shri P. Venkateshwari,
Deputy Controller,
Hyderabad- Pin 500 001.
(Andhra)
4. Smt. Alka Arora Mishra,
Senior Civil Personnel
Officer Divisional Office,
C.Rly. Mumbai C.S.T.
Pin. 400 001.

.... Respondents

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

O R D E R (ORAL)

[Per: S.R. Adige, Vice Chairman (A)]:

Applicant impugns respondent's order dated 8.2.1996
rejecting her prayer for adhoc promotion in Senior Scale prior to
her empanciment.

2. Heard both sides.
3. As per respondent's Circular dated 31.12.1985 (Annexure A.3), vacancies arising in Senior Scale posts are required to

be filled by the promotion of Group 'A'/Junior Scale Officers who have rendered in Junior Scale the prescribed years of service. If eligible Group 'A' Junior Scale Officers are not available, Junior Scale Officers with minimum three years of service who have completed the probation successfully ^{and} are available, ⁷ ~~they~~ should be considered for looking after duties in Senior Scale on payment of a Special pay of Rs.150/- p.m. in addition to pay in Junior Scale. Failing (i) and (ii) above, Group 'B' officers who have rendered not less than three years of service in Group 'B' and have been adjudged suitable by a Committee of Head of Departments for appointments against Senior Scale vacancies should be considered for adhoc appointment.

4. According to applicant, one vacancy in senior scale became available in January, 1989 at which point of time admittedly applicant, who is a Group 'B' Officer, was not eligible for adhoc appointment to that vacancy.

5. Respondents contend that the aforesaid vacancy did not arise in January, 1989, but became available only in May 1989. It is not denied that applicant acquired eligibility for consideration for adhoc promotion to Senior Scale on 7.3.1989, but even on that date there were at least two Group 'B' Officers who were senior to her.

6. In December, 1989, a DPC was held by which time, eligible Group A Junior Scale Officers ^{and} became available, ^{and} one such Group A Junior Scale Officer was accordingly appointed to Senior Scale.

7. As the appointment of Group 'B' Officers to the Senior Scale as per aforesaid Circular dated 31.12.1985, was only on

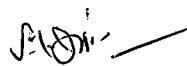
adhoc basis, it cannot be said applicant had any enforceable legal right for promotion to a Group A Senior Scale vacancy immediately ~~and~~ she became eligible, more particularly as there was at least two Group B Officers who were senior to her, and who would have acquired precedence over her for consideration for appointment to senior scale.

8. Further more there are no materials on record to enable us to hold conclusively that applicant was denied promotion to Senior Scale between March, 1989 when she became eligible, and December, 1989 when the DPC was initially held, merely to deny her that adhoc promotion and to advance the claims of the Group 'A' Officers.

9. That apart, applicant's cause of action arose in 1989, but applicant represented to respondents in this regard only on 20.12.1995 and filed this O.A. upon rejection of his representation only on 3.7.1996. The O.A. is, therefore, grossly time barred and hit by limitation under section 21 of the A.T. Act calculated from the date the cause of action initially arose in 1989. MP No. 989/2001 has been filed for condonation of delay, ^{also,} but the M.P. has ~~ever~~ been filed nearly 5 years after the O.A. was filed.

10. Furthermore, applicant has since retired from service on superannuation.

11. In the result, we find ourselves unable to intervene in the matter. The O.A. along with the M.P. No. 989/01 are dismissed. No costs.


(S.L.Jain)
Member (J)

S.J*


(S.R. Adige)
Vice Chairman (A)