

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 264/99

Transfar Application No:

DATE OF DECISION: 27/9/99

Shri Ashok Madam Mhashekar Petitioner

Shri Colin Gonsalves Advocate for the Petitioners

Versus

Union of India & 4 Ors. Respondent

Shri R.R.Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

The Hon'ble Shri B.N.Bahadur, Member(A).

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

(R.G.VAIDYANATHA)
VICE CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION: 264/99.

DATED THE 27TH DAY OF SEPT. 99.

CORAM: HON'BLE SHRI JUSTICE R.G. VAIDYANATHA, VICE CHAIRMAN

HON'BLE SHRI B.N. BAHADUR, MEMBER(A)

1. Shri Ashok Madam Mhashelkar,
aged 41 years, presently
employed as Lorry Driver,
Coach & Wagon Department, Wadi
Bunder, Mumbai - 400 010. ... Applicant.

By Advocate Shri Colin Gonsalves.

v/s.

1. Secretary, Union of India,
Railway Bhavan, Delhi.
2. Chairman & Member,
Railway Board, Railway Bhavan,
Rafi Marg, Delhi.
3. General Manager,
Central Railway, C.S.T.
4. Divisional Railway Manager,
Central Railway,
Mumbai - 400 001.
5. Divisional Personnel Officer
(C&W), DRM's Office,
Central Railway,
Bombay CST-1. ... Respondents.

By Advocate Shri R.R. Shetty.

¶ ORDER ¶ ¶ ORAL ¶

¶ Per Shri R.G. Vaidyanatha, Vice Chairman ¶

This is an application filed by the applicant claiming a direction to respondents to promote him as Grade-II Driver from February, 90 and further promotion as Grade-I Driver from February, 97. Learned Counsel for respondents opposes the application on the ground of limitation, delay and laches. We have heard both counsels.

2. The applicant's grievance is about Seniority list of Grade-III Drivers. Further he is seeking retrospective promotion as Grade-II Driver but the present application is filed after 9 years in 1999. No doubt the applicant has filed MP-223/99 for condonation of delay. The only reason given is *that*

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applicant was making representations directly and through Union and since no action was taken he has approached this Tribunal.

3. It is well settled that sending repeated representations does not arrest or save limitation as laid down in the decision of Supreme Court reported at 1996-SCC-L&S-205 in R.D.Valland's case. Supreme Court has held that sending repeated representations does not arrest or save ^{well} Limitation. It is also settled that ~~xxx~~ matters of seniority list and promotions cannot be kept hanging for years together. We do not find that sufficient ground is made out for condoning the delay.

4. The learned counsel for applicant now brings to our notice that the department has since issued a new seniority list dated 1/8/99 where also his name does not find a place even in Grade-III Drivers. He shows us the provisional seniority list dated 1/8/99. The covering letter itself says that employees may submit their representations if there are discrepancies in the seniority list. It is a new cause of action which ^{has} ~~has~~ arisen subsequent to the filing of OA. We give liberty to the applicant to make representation to administration in respect of seniority list dated 1/8/99 and take whatever ~~that~~ pleas are available according to law. It appears the period of one month expired about few days back. In the circumstances, we give liberty to the applicant to make a representation regarding the seniority list within two weeks from today. If the applicant makes a representation within two weeks from today, then the Competent Authority shall consider the same and pass appropriate orders according to law in respect of seniority list dated 1/8/99.

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5. Respondents have filed MP-375/99 for deletion of Respondent Nos.1 and 2 from the cause title. Since we are disposing of the OA itself at admission stage, the MP does not survive.

6. In the result, the OA is disposed of at the admission stage subject to observations mentioned above. MP-223/99 for condonation of delay is dismissed. MP-375/99 does not survive. There will be no orders as to costs.

B. N. Bahadur

(B.N. BAHADUR)
MEMBER(A)

R. G. Vaidyanatha

(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.