

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:457/2000

DATE OF DECISION: 1.6.2001

Shri Sanjay Kashinath Kawle Applicant.

Smt. N.V. Masurkar with Shri S.P. Inamdar Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri Suresh Kumar Advocate for
Respondents

CORAM

Hon'ble Shri Justice, B.Dikshit, Vice Chairman
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.

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

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**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION NO:457/2000

FRIDAY the 1st day of JUNE 2001

CORAM: Hon'ble Shri Justice B.Dikshit, Vice Chairman

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

Sanjay Kashinath Kawle.
Residing at Bhakti Prasad
Society, B-16,
Ranganath Keshkar Marg.,
Dahisar (West) Bombay.

By Advocate Ms. N.V. Masurkar with Shri S.P. Inamdar.

V/s

1. Divisional Railway Manager
Western Railway, BCT,
Mumbai Central, Mumbai.
2. Divisional Electrical
Engineer(E), Western Railway,
Mumbai Central, Mumbai.
3. Divisional Engineer(E)
BCT, Western Railway,
4. Kishore Naik
Working as ELF Grade I
at Rajdhani, BCT,
Bombay Division,
Western Railway.
5. R.T. Mayekar
Working as ELF Grade I
RAC-I, BCT, Bombay Division
Western Railway.

Respondents.

By Advocate Shri Suresh Kumar.

ORDER(ORAL)

{Per Shri B.N. Bahadur, Member(A)}

At the outset we find from the facts that the issue of
limitation is involved. Indeed an M.P. 443/2000 has been filed
for condonation of delay to which reply has been filed by the
respondents.



2. At the outset therefore we consciously heard both the counsel on the matter of limitation, delay and laches and considered the aforesaid M.P. We have gone through the M.P., reply to M.P. and the arguments raised before us on limitation, delay and laches.

3. It is seen that the relief sought is for seniority and it is sought from 28.12.1988 (Para 8(a)). The objections taken is that the cause of action infact arose in 1988. The learned counsel for the Applicant, however, argues stranously with reference to reply (page 16-A Annexure A) states that cause of action starts with letter dated 16.7.1997. Assuming this to be correct that the cause of action starts from 16.7.1997, we find that filing is still delayed by 16 months, allowing 1 1/2 years from July 1997.

4. The learned counsel for the respondents argued that protection since protection is only for six months and one year thereafter. Importantly this is a seniority matter and the law settled by the Supreme Court in interfering in the seniority matter should not be done except in very deserving cases. Thus condonation of delay cannot be granted easily. Changing seniority positions also involves upsetting settled positions.

5. In this case we do not find any reason for condonation of delay. Given facts and circumstances of the case the M.P. for condonation of delay is rejected. Under the circumstances merits of the OA cannot be gone into, and the OA is dismissed with no order as to costs.

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

1/6

B. Dikshit
(B.Dikshit)
Vice Chairman