

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.599/2000.

Dated this Friday the 20th Day of June, 2003.

Coram : Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Shanker Raju, Member (J).

Shri U.N. Wagh,
working as
Assistant Foreman/Breakdown
Incharge, Central Railway,
Bhusawal.

.. Applicant.

(By Advocate Shri D.V. Gangal).

Versus

1. The Union of India, through
The General Manager,
Central Railway,
Headquarters Office,
Mumbai CST.
2. The Divisional Railway Manager,
Bhusawal Division,
Central Railway,
Bhusawal.
3. A. D'Silva
working as
Breakdown Incharge,
Central Railway,
Bhusawal Division,
Bhusawal.

.. Respondents.

(By Advocate Shri V.D. Vadhavkar).

ORDER

Shri V.K. Majotra, Member (A).

The grievance of the applicant is that he has been reverted from the post of Breakdown Incharge, Scale Rs.7450-11500 to Scale Rs.6500-10500, ^{1b} as a consequence of promoting Respondent No.3 on 12.1.1984 as Chargeman Grade I. The applicant has sought declaration that he is senior to Respondent No.3 in the cadre of Assistant Mechanical Foreman and Foreman/Breakdown Incharge and

...2...

also a direction to the respondents to consider him for promotion and regularisation ^{as} ~~as Foreman~~ in the post of Foreman/Breakdown Incharge from the date his junior Respondent No.3 has been promoted. He has also sought consequential benefits.

2. It has been stated on behalf of the applicant that Respondent No.2 while he was working as Assistant Loco Foreman at Murtizapur in 1983 he was awarded a punishment of removal from service with effect from 1.7.1983 in disciplinary proceedings. On appeal this punishment was reduced to reversion to the post of Junior Fitter Chargeman Grade Rs.425-700 on pay of Rs.500/- for a period of three years (N.C.). He returned on duty on 12.1.1984 as the period from 1.7.1983 to 11.1.1984 was treated as suspension. According to the applicant Respondent No.3 was promoted as Senior Fitter Chargeman in the scale of Rs.550-750 on 12.1.1987. Shri S.D. Deshpande was immediate junior of Respondent No.3. Shri Deshpande was promoted as Senior Fitter Chargeman on 14.2.1985. Respondent No.3 became eligible for promotion on 12.1.1985 when a junior was promoted as Senior Fitter. Thus according to the applicant his seniority vis-a-vis ~~to~~ Respondent No.3 is not comparable as Respondent ³ ~~3~~ was holder of a lower post. He has further alleged that respondent unsettled the settled position of applicant's seniority by favouring Respondent No.3.

3. The learned counsel of the respondents has first

...3...

of all raised the issue of limitation, whereas the applicant has contended that he has filed the O.A. within the prescribed period of limitation, learned counsel of the respondents has pointed out that the cause of action for the applicant had arisen in 1997 when applicant's promotion as Breakdown Incharge was cancelled vide annexure dated 25.11.1997 but he has filed the present O.A. on 3.8.2000 i.e. much beyond the prescribed period of limitation. The learned counsel of the applicant has not rebutted the contention of learned counsel of the applicant in this behalf. This O.A. thus certainly suffers from delay and laches. Learned counsel of the respondents has further contended that in this backdrop the O.A. has to be dismissed and cannot be proceeded with any further. In this regard he has relied ^{lb} on 2000 SC (L&S) 53 Ramesh Chand Sharma Vs. Udham Singh Kamal and others. In that case the petitioner had filed a time barred application for which condonation of delay had not been sought. The application was made 3 years after the cause of action had arisen. It was held that the application beyond the limitation cannot be considered on merits.

4. In the present case too the applicant has challenged respondents letter dated 25.11.1997, Annexure A-1, In para 3 of O.A. applicant has wrongly ascertaining ^{-serted lb} that the application is within the prescribed period of limitation. Learned counsel of the applicant has fairly admitted that he is not contesting the objection relating

...4...

to limitation. He has also not filed any application for explaining the delay. Application has been filed after a lapse of about 3 years without any application for condonation of delay under Section 21 (3) of the Administrative Tribunals Act 1985. O.A. filed after such a inordinate delay cannot be admitted and disposed of on merits in view of the statutory provisions contained in Section 21 (1) of the Administrative Tribunals Act 1985. This O.A. is dismissed on the ground of limitation alone and without considering merits of the case placing reliance on the case of Ramesh Chand Sharma (Supra) and Secretary to Government of India Vs. Shivram Mahadu Gaikwad 1995 Supplementary SCC 231.

S. Raju

(Shanker Raju)
Member (J)

Vk Majotra

(V.K. Majotra)
Member (A).

H.