

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 661 of 2001.

Dated this Wednesday, the 2nd day of January, 2002.

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

Hon'ble Shri S. L. Jain, Member (J).

V. K. Tempe,
Chief Electrical Engineer,
Conversion,
Mumbai C.S.T.

... Applicant.

(By Advocate Shri K. B. Talreja)

VERSUS

1. Union of India through
The Secretary,
Railway Board,
Rail Bhavan,
New Delhi.

2. The General Manager,
Central Railway,
C.S.T.M., Mumbai.

... Respondents.

(By Advocate Shri Suresh Kumar)

O R D E R (ORAL)

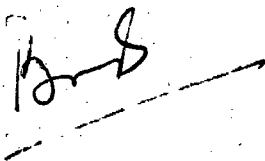
PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri V. K. Tempe, seeking the relief from this Tribunal, in substance, as follows :

The Applicant most respectfully prays as under :

- (a) This Hon'ble Tribunal will be pleased to order and direct the Respondents to re-consider the SAG/IRSEE Panel approved on 13.12.1995 and incorporate the name of the applicant on the basis of his performance and award him all the consequential benefits such as seniority,

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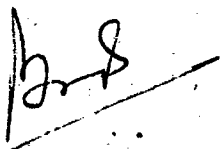


fixation of pay and arrears thereof from the period from 13.12.1995 to 29.04.1997.

- (b) This Hon'ble Tribunal will be pleased to order and direct the Respondents to produce all the relevant records of panel approved on 13.12.1995 when the applicant was overlooked for SAG Grade and allowed his juniors to supersede, which has sustained loss of seniority to the applicant and satisfy the Hon'ble Court, whether the action of the Respondents is consistent to the rules or otherwise."

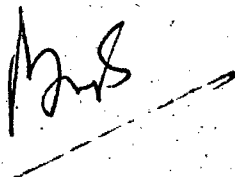
In other words, the Applicant is challenging the panel of SAG/IRSEE approved by Respondents as early as on 13.12.1995 and seeking consequential benefits of seniority, etc. After going through the important relevant dates namely- the date of 13.12.1995 and the date/s in reply at page 25 and 26 and the date of filing of the O.A., it becomes obvious at the threshold that the point of limitation will need to be gone into first. Accordingly, we have heard Learned Counsel, Shri K. B. Talreja, for the Applicant and Learned Counsel, Shri Suresh Kumar, for the Respondents on this point first. Counsel for Respondents has no objection to the hearing of the case in regard to limitation without filing of a reply statement.

2. To recapitulate, it is seen that the panel being challenged is prepared as early as in December, 1995. The Applicant has further made a representation in regard to his supersession by an application which is annexed by him at Annexure A-3 page 15. This application is dated 04.03.1996 and the subject is "Supersession of the undersigned for posting in



SAG Gr. Rs. 5900-6700 (RPS)". It is the contention of the Learned Counsel for the Applicant that this was replied to only in July, 1999 and hence the period between 1996 to 1999 should not be counted as going against him for the purpose of limitation. In other words, the contention is that he was not obliged to come to the Tribunal within six months of the date of making of first representation, in view of representation being decided only in July, 1999. Even if this is allowed for argument/s sake and we agree to his contention, it will mean that the date of cause of action will become 12.07.1999. The O.A. has been filed on 13.09.2001 which is some 25 months after the asserted cause of action.

3. On this delay, the Learned Counsel for the Applicant has stressed that he has filed a M.P. No. 849/01 for condonation of delay. We have gone through this M.P. and do not find any reason which would convince us to condone a delay of some 25 months, even after the reply to representation. Learned Counsel for the Applicant argued that even after receiving the reply in July, 1999, he had once again represented the matter to try to ascertain a reason of supersession. He is also aggrieved that the Central Railway refused to forward his application (Annexure-1, page 11). In this regard, it must be seen that this is a case of repeated representation. The law in regard to



repeated representation/s has been made clear in more judgements than one, by the Apex Court. We are guided in this regard by the ratio in the matter of S. S. Rathore V/s. State of Madhya Pradesh [AIR 1990 SC 10].

4. Thus, even on the assumption that the cause of action is in July, 1999, we find no ground for the two year delay in Applicant coming up before this Tribunal. Neither can the action of repeated representation can help him, in view of well settled law in this regard.

5. Learned Counsel for applicant has attempted to argue the matter in regard to competence and the faulty decision in the judgement of D.P.C. in assigning performance. We are not going into merits since we are convinced that the matter is hit very badly by the law of limitation and suffers from delay and laches.

6. In view of the above, this O.A. is dismissed as being hit by the law of limitation and suffering from delay and laches. There will be no order as to costs.


(S. L. JAIN)
MEMBER (J).


(B. N. BAHADUR)
MEMBER (A).

OS*

dt 21/1/02
Original
to Ap. Dependent (s)

on 21/01/02

