

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

OA No. 617/2001

Mumbai, this 3rd day of September, 2001

Hon'ble Shri Justice Birendra Dikshit, VC(J)

Hon'ble Shri M.P.Singh, Member(A)

K.S.R.N.Sastry
151-B, Rly. Quarters
Ghorpuri, Pune-411001

.. Applicant

(By Shri R.D.Deharia, Advocate)

versus

Union of India, through

1. General Manager, SC Rly
Railnilayam, Secunderabad
2. Chief Operating Manager
SC Rly, Secunderabad
3. Divisional Railway Manager
SC Rly, Hubli
4. Sreenivash R. Bhanu
Transportation Inspector
SG Rly, Secunderabad

.. Respondents

ORDER(oral)

Shri M.P.Singh

The applicant has filed this OA under section 19 of the AT Act, 1985 seeking the following reliefs:

i) Respondents be directed to give a chance to the applicant to exercise his option and once the said option is exercised, the same shall be deemed to have taken into effect from the date of bifurcation of Station Master Staff and Yard Master Staff took place, and based on such seniority the applicant shall be entitled for consequential benefits as a result of such option;

ii) Hold and declare that the impugned order dated 12/16.5.97 and seniority published on 22.11.96 as well as the decision taken in PNM meeting and conveyed vide letter dated 4.11.99 to all concerned is vague and thus void; and

iii) Hold and declare that the applicant is entitled to be considered for promotion to the grade of Rs.7450-11500 (RPS) based on his seniority in combined list for which selection held in the year 1996 for Station Master Cadre.

2. Brief facts of the case are that the applicant was originally appointed as Assistant Station Master (ASM) w.e.f. 31.12.75. He was selected as Traffic Apprentice in the year 1980 and after completion of training he was posted as Assistant Yard Master w.e.f. 5.10.1982. Subsequently cadre bifurcation was made during the year 1984 and at that time he was working as AYM and he belonged to the cadre of AYM only. Thereafter, respondents have issued three seniority lists on 15.3.88, 17.12.92 and 22.11.96. It was for the first time that the applicant submitted a representation on 18.12.96 for the change of his cadre from AYM to Station Master. The plea taken by the applicant is that all these years he did not know as to which cadre he was belonging to. According to him, he was never asked by the respondents to exercise his option and was also not supplied with copies of seniority lists after bifurcation of the cadre of AYM and Station Master.

3. Heard the learned counsel for the applicant. During the course of the arguments, he drew our attention to the judgement of the Hyderabad Bench of this Tribunal decided on 6.7.93 in OA No.317/91. After perusing this judgement, we find that the applicants in that case have earlier filed OA No.303/86 in the year 1986 i.e. within two years after the cadre was bifurcated. In the instant case, the applicant has filed this OA after a long delay

of 17 years. The delay in filing the present OA has also not been properly explained by the applicant. It is hopelessly time-barred under section 21 of the AT Act, 1985. The apex court in the case of S.S.Rathore Vs.State of MP AIR 1990 SC 10 has held that repeated unsuccessful representations not provided by law do not enlarge or extend the period of limitation.

4. In view of the legal position cited above, we are of the considered view that the OA is badly hit by laches and delays and, therefore, we cannot entertain the same after a lapse of 17 years. The OA is accordingly dismissed. No costs.

(M.P. Singh)
Member(A)

(Birendra Dikshit)
Vice-Chairman

/gtv/

CENTRAL ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

RA No.63/2001 in OA No.617/2001

Mumbai, this 2nd day of November, 2001

Hon'ble Shri Justice Birendra Dikshit, VC(J)
Hon'ble Shri M.P.Singh, Member(A)

K.S.R.N.Sastry
151-B, Rly. Quarters
Ghorpuri, Pune-411001

.. Applicant

(By Shri R.D.Deharia, Advocate)

versus

Union of India, through

1. General Manager, SC Rly
Railnilayam, Secunderabad
 2. Chief Operating Manager
SC Rly, Secunderabad
 3. Divisional Railway Manager
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 4. Sreenivash R. Bhanu
Transportation Inspector
SC Rly, Secunderabad
- .. Respondents

ORDER(in circulation)

Shri M.P.Singh

This RA has been filed on behalf of the applicant for review of judgement/order dated 3.9.2001 by which OA No.617/2001 was dismissed as badly hit by laches and delay. The plea taken by the review applicant is that there is an error on the face of the judgement. He has also cited a catena of judgements in support of his prayer for a review. While we find that there is no error apparent on the face of record as alleged by the applicant nor is there sufficient ground for a review, we also note that the judgements cited by the applicant would not render him any assistance, in view of the

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recent decision of the Hon'ble Supreme Court dated 12.10.1999 in the case of R.C.Sharma Vs. Udhamp Singh Kamal & Ors. 2000 SCC(L&S) 53, the relevant portion of which is extracted below:

"7. On a perusal of the materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under section 21(3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the OA filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21(1) of the Administrative Tribunals Act, 1985. The law in this behalf is now settled (see Secy. to Govt. of India V. S.M.Gaikwad 1995 Supp(3) SCC 231).

"8. For the reasons stated above, the impugned order passed by the Administrative Tribunal on 6.8.1996 in OA No.631 of 1994 is set aside and the said OA is dismissed on the ground of limitation."

2. Admittedly, the aforesaid OA was filed by the applicant after a lapse of 17 years as rightly pointed out by us in our judgement dated 3.9.2001. Therefore, having regard to law settled by the apex court as extracted supra, we have no ground to entertain the present RA under Section 22(3)(f) of the AT Act, 1985 read with Order 47, Rule 1 CPC. The RA is therefore dismissed. No costs.

M.P. Singh
(M.P. Singh)
Member(A)

B. Dikshit
(Birendra Dikshit)
Vice-Chairman

Item No.12

QA No.617/2001

03.09.2001

Present: Shri R.D. Deharia, counsel for applicant

OA dismissed by an oral order passed separately.

(M.P. Singh)
M(A)

(B.Dikshit)
VC (J)

/gtv/

R.P. No. 6310
Filed by Applicant,
by Circumlocution

3
19/10

dt. 21/11/01
order/despatched despatched
to Applicant/Respondent (s)
on 18/12/01

Mo