

Central Administrative Tribunal
Mumbai Bench

O.A. 204/2001

Mumbai this the 9th day of October, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri B.N. Bahadur, Member(A).

Smt. Nalini O. Patil,
Retired Railway School Teacher,
residing at Achyut Hindu Housing Socy.,
Bhusawal.

(By Advocate Shri U.M. Joshi)

Versus

Union of India through

1. General Manager,
Central Railway,
CST Mumbai.
2. Chief Personnel Officer (L&W),
Head Quarters Office,
CST Mumbai.
3. DRM,
Central Railway,
Bhusawal.
4. Head Master,
Central Railway School,
Bhusawal.

... Respondents.

(By Advocate Shri V.D. Vadhavkar)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

In this application, the applicant has sought various reliefs as set out in paragraph 8 of the O.A., including grant of promotion to her from June, 1968 as Middle School Teacher with subsequent promotions and consequential benefits.

2. Right at the outset, Shri U.M. Joshi, learned counsel for the applicant, has fairly submitted that there is a recent judgement of the Tribunal in Raghunath Mahade Asodekar Vs. Union of India and Ors. (OA 200/2001), decided on 20.9.2001 (copy placed on record). He has, however, submitted that this judgement is not exactly on the same facts and issues raised in the present case as what he is seeking in the present case are certain benefits which ought to have been given to the applicant by the respondents as a result of the recommendations of the Chattopadhaya Commission which have been accepted by the respondents as far back as 1988 with retrospective effect from 1986. Learned counsel has very vehemently submitted that the applicant as Assistant Teacher and Trained Graduate Teacher (TGT) was to get the same scale of pay applicable at the relevant time. He has also submitted that the applicant was senior to one Mrs. D.L. Elizabeth who was an Assistant Teacher of English Medium School and has been referred to in the respondents' Office Order No. 7/1990 which apparently has been issued sometime in May, 1999.

3. We notice that the respondents have, in their reply dated 28.3.2000 to the belated representation of the applicant dated 1.12.1999, stated that they have examined her case afresh. We further notice that in the reply to the O.A. filed by the respondents dated 3.8.2001, they have taken the preliminary

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objections that the application is belated and is barred by jurisdiction and limitation. Shri V.D. Vadhavkar, learned counsel, has submitted that the O.A. also suffers from plural remedies and is, therefore, not maintainable, having regard to Rule 10 of the CAT (Procedure) Rules, 1987. He has also relied on the aforesaid recent order of the Tribunal in R.M. Asodekar's case (supra), in which a similar application for reliefs sought by the applicant from 1968 was dismissed along with the MP for condonation of delay. Learned counsel has, therefore, submitted that in the present case also, the O.A. should be dismissed only on the ground of limitation.

4. We are unable to agree with the contention of the learned counsel for the respondents, taking into account the facts and circumstances of the present case that the O.A. should only be dismissed on the ground of limitation. As mentioned above, it is clear from the reply given by the respondents dated 28.3.2000 that they have themselves re-examined the case of the applicant in her representation dated 1.12.1999 and have given a detail and reasoned order. Therefore, in the circumstances of the case, we have proceeded to examine the matter on merits.

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5. Learned counsel for the applicant has drawn our attention to the representation of the applicant dated 25.6.1999 (Annexure A-8). A copy of the representation given by the applicant dated 1.12.1992 and referred to in the respondents' aforesaid reply has also been annexed in the O.A. Learned counsel for the applicant has frankly admitted during the hearing that in this representation there has been no mention at all of the case of the applicant vis-a-vis Mrs. D.L. Elizabeth, whose name figures in the Office Order issued in May, 1999 whom he claims is junior to the applicant, on the basis of which she has made certain claims regarding re-fixation of pay promotion, etc. from a retrospective date. We find no good reason why the applicant while submitting the belated representation on 1.12.1999 still did not care to make her claims based on whatever reliefs have been afforded to Mrs. Elizabeth who, according to her, is junior to her. No seniority list showing the applicant senior to Mrs. Elizabeth at the relevant time has been shown. The document relied upon by the applicant annexed to the O.A. (A6) which is in Marathi is not the seniority list but is the revision of pay of English School Teachers, including the applicant dated 13.2.1985 as stated by her in the Index and will not assist her. There is no doubt at all that in the facts and circumstances of the case, the claims raised by the applicant vis-a-vis Mrs.

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Elizabeth are highly belated and suffer from laches and delay, apart from the fact that the case is also barred under the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985.

6. In the result, for the reasons given above, we find no merit in this application. O.A. fails and is dismissed. No order as to costs.

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

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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