

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.93/90

P.R.Narsikar,
Guard-A,
r/o Waikar Wada,
Mahal,
Nagpur.

.. Applicant

vs.

1. The Divisional Railway Manager,
South Eastern Railway,
Nagpur.
2. The General Manager,
South Eastern Railway,
Nagpur.
3. The Union of India
through
the Secretary,
Railway Board,
Rail Bhavan,
New Delhi.
4. Shri G.S.Sarangi,
Guard-A,
C/o. The Chief Controller
South Eastern Railway,
Nagpur Dn.Nagpur. .. Respondents

Coram: Hon'ble Shri G.Sreedharan Nair, Vice-Chairman
Hon'ble Shri I.K.Rasgotra, Member (A)

Appearances:

1. Mr.S.V.Gole
Advocate for the
Applicant.
2. Mrs.Indira Bodhade
Advocate for the
respondents.

ORAL JUDGMENT: Date: 7-8-1990
(Per G.Sreedharan Nair, Vice-Chairman)

Heard Mr.S.V.Gole, advocate for the applicant and Mrs.Indira Bodhade, advocate for the respondents who appeared in response to the notice issued and opposed the ~~xx~~ admission.

2. The relief claimed in the application is to quash the orders dated 27.7.1989 and 11.9.1989 by which the representations submitted by the applicant against his seniority both in the cadres of Guard 'B' and Guard 'A', as per the published

seniority was questioned. Admittedly the seniority list relating to the cadre of Guard 'B' was published in the year 1978 and that in the cadre of Guard 'A' was published in the year 1986. It is also seen that the latter was more or less based on the former. So much so when the applicant submitted his representation for the first time on 28-4-1989 it was rejected by the order dated 24-7-1989 pointing out that the prayer of the applicant involves the revision of seniority with effect from 1977 and as such ~~as such~~ it has been made only after a lapse of ~~entertained~~ 12 years cannot be made. It is seen that again a representation was made on 1-8-1989 which too was rejected by the order dtd. 11.9.1989.

3. The question that falls for determination is whether the aforesaid orders required interference ?

4. As the seniority lists which are under attack were issued in the year 1978 and in the year 1986 the present application seeking the declaration of seniority of the applicant against what is shown in those lists is clearly barred by limitation as the application ~~has been~~ filed only in February, 1990.

5. Counsel of the applicant invited our attention to the decision of the Chandigarh Bench of this Tribunal in Ram Lal Thakur & Ors. vs. Union Territory of Chandigarh (1990(2)SLT(CAT)132) wherein it was held that when the department entertains a delayed representation and examines it, the plea of limitation is of no avail. The said decision is of absolutely no assistance to the applicant as this is a case where the delayed representation of the applicant was not examined by the department, but was turned down on that ground itself. Besides after the

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decision of the constitution Bench of the Supreme Court in Rathore's case, ^{it has to be held that} the submission of a delayed representation will not extend the period of limitation even if that representation was considered and rejected.

6. In the circumstances this is a case where the impugned orders cannot be assailed by the applicant.
7. The application is rejected.

I.K.Rasgotra
(I.K.RASGOTRA)
Member (A)

G.Sreedharan Nair
7.8.00
(G.SREEDHARAN NAIR)
Vice-Chairman