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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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O.A. NO: 327/92

199

I.A. NO:

DATE OF DECISION 5-7-92

Kishan S/o Laxman Acharya Petitioner

Shri K.L. Acharya &  
Shri V.P. Kadam Advocate for the Petitioners

Versus

Union of India Respondent

Shri J.G. Sawant Advocate for the Respondent(s)

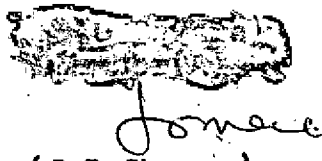
CORAM:

The Hon'ble ~~Ms.~~ Ms. U. Savara, Member(A)

The Hon'ble Mr. J.P. Sharma, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgement ? No
4. Whether it needs to be circulated to other Benches of the Tribunal ? No

mbm\*

  
(J.P. Sharma)  
Member(J)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
BOMBAY

Original Application No. 327/92

Kishan S/o Laxman Acharya,  
Pointsman  
Chikalthan Railway Station,  
South Central Railway.

Applicant

Vs

Union of India through  
The Divisional Railway Manager,  
Hyderabad Division,  
South Central Railway,  
Secunderabad and Others.

Respondents

Coram: Hon'ble Ms. Usha Savara, Member(A)  
Hon'ble Mr. J.P.Sharma, Member(J)

Presence:

Shri K.L.Acharya  
and Shri V.P.Madam  
Advocates for the applicant.

Shri J.G.Sawant, Advocate  
for the respondents.

Dated: 3-7-92

Judgement

(Per: Hon'ble Mr. J.P.Sharma , Member(J))

The applicant was working as a Pointsman 'A' DLB Chikalthana Railway station, Aurangabad has assailed his promotion and seniority and pay fixation. He has claimed the relief that the respondent No.1 be directed to fix the due basic pay of the applicant of the post of Pointsman 'A' from 1-12-1976 and pay the arrears of pay and allowances of such pay fixation and also his seniority be fixed and be considered for promotion to the next higher post.

The brief facts of the case are that the applicant was initially appointed as a Yard Porter on 27-4-1958 and was promoted as a Pointsman 'B' with effect from 3rd Dec. 1973. The applicant was further promoted as Pointsman 'A' by order dated 28th Jan.1984 with effect from

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1-8-1982 with proforma fixation of pay from that date. It is stated by the applicant that due to error in the department he was paid only Rs. 38/- at that time whereas his juniors was drawing Rs. 60/- per month. He made a representation to the respondent No. 1 by letter dated 12th Oct. 1980 but the respondent did not reply that letter. The applicant also submitted other representations but to no effect. Thus, in short the case of the petitioner is that some of his juniors have been promoted to the higher posts that is Pointsman 'A' drawing more salary than the petitioner earlier to the petitioner. The petitioner ought to have been promoted as Pointsman 'A' in year 1974 and ~~was~~ has no fault of the petitioner, he was never called ~~for the~~ promotional post conducted by the Divisional Railway Manager.

The respondent contested the application and filed a reply by taking preliminary objection that the application is barred by the limitation. The applicant was very well informed by the letter dated 4th Sept. 1985 annexure to the reply as annexure R-1. In this letter it is specifically stated that promotion to Pointsman 'A' is only on passing promotional post and since the applicant did not pass ~~that~~ post therefore he was not eligible for higher rate of pay on par with the junior Shri Bhaudas Tukaram. Shri Bhaudas Tukaram was promoted as Pointsman 'B' in 1962 while the applicant was promoted in 1973. According to the respondent the applicant has raised very old issue which is not open to him under the provisions of the Section 21 (1) of the AT Act 1985.

We have heard the learned counsels of both the parties at length. The grievance of the applicant arose that he was not called for promotional post *but this issue was not raised in the present application at all.*

The applicant was specifically informed by the letter dated 4.9.1985 rejecting his representation regarding his fixation of pay at par with the juniors and non-promotion as Pointsman 'A' earlier to his juniors. The present application has been filed by the applicant on 26.3.92. Thus, this is not within limitation under the provision of section 21 (B) of the A.T. Act 1985. The applicant was again communicated another information where he was told in 1987 that there is no case for earlier promotion as Pointsman 'A'. However in his communication the Asstt. Officer has made note that the seniority list was not finalised till the date of order of promotion so his name was omitted. But he has been given proforma promotion from the date his junior has been given. In view of the above we find that the applicant has not come at appropriate time to assail his grievance. If he was not satisfied by the communication i.e. annexure-I of the respondent and communication of 1987 annexure -II to the application itself, then the application should have been filed after in one year's time from that date.

In view of the latest decision in the case of Shri S.S. Rathode Vs. Madhya Pradesh Govt. AIR 1990 Supreme Court Page 10 the repeated representation for the same grievance will not add to the period of limitation described in the A.T. Act 1985. We are of the opinion that the present application is hopelessly barred by time and is dismissed. Parties to bear their own costs.

*J. P. Sharma*  
(J.P. SHARMA) 3.7.92  
MEMBER(J)

*Usha Savara*  
(USHA SAVARA) 3.7.92.  
MEMBER(A)