

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 965/93

Date of Decision : 31st October 2000

C.M.Birus _____ Applicant.

Shri L.M.Nerlekar _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents.

Shri S.C.Dhawan _____ Advocate for the
Respondents.

CORAM :

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

The Hon'ble Smt.Shanta Shastry, Member (A)

- (i) To be referred to the Reporter or not ? YES
- (ii) Whether it needs to be circulated to other No. Benches of the Tribunal ?
- (iii) Library YES

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

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.965/93

Dated this the 31st day of October 2000.

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

Hon'ble Smt. Shanta Shastry, Member (A)

1. Chandramohan M.Birus
2. Muthuveran Servaikaran Raju
3. Chandra Balan
4. V.Devenathan

All are Assistant Drivers
under Loco Foreman, Kalyan.

... Applicants

By Advocate Shri L.M.Nerlekar

V/S.

Union of India through
Divisional Railway Manager,
Central Railway, Bombay V.T.

... Respondents

By Advocate Shri S.C.Dhawan

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to calculate the exact number of posts available for SC/ST candidates on the basis of reservation policy in vogue in the category of Shunter prior to merger of Diesel Assistant and Assistant Driver (Elec) and to consider the applicants for posting against the reserved posts in accordance with the rules and to post the applicants from the date the vacancies available for promotion.

S.L.Jain

..2/-

2. An application dated 5.8.1989 was filed before this Tribunal (OA.NO.518/91) wherein the applicants were party and the prayers in the said application were as under :-

"(a) The Hon'ble Tribunal will be pleased to quash and set aside the impugned order dated 25.7.1990.

(b) To direct the Respondent to prepare and circulate combined gradation list of the Applicants and the Respondents 6 & 7 and other similar common grade employees in Asstt. Driver Category according to date of entry, and give promotion according to total length of service on par with other five Divisions of Central Railway"

3. The said OA. was decided vide order dated 29.1.1993 Cadre of Diesel Assistant to be merged in the Cadre of Assistant Driver (Elect) vide Ex.C.

4. The applicants have stated in OA. para 4.8 that they are challenging the judgement and order dated 29.1.1993 in this application. They have changed and rightly changed the said stand in rejoinder.

5. In OA. the applicants have not stated the vacancy in a particular year but in rejoinder they have stated that as per seniority list circularted on 13.10.1988, there were 295 posts, SC/ST quota should be 44 & 22 respectively while respondents promoted only 37 SC and 8 ST employees as Shunters as per the said seniority list. They further stated that as per Diesel Assistant seniority list dated 20.12.1989, there was a short fall of 7 SC/14 ST candidates. Though the said vacancy position is denied by the respondents.

0.1.80/- ..3/-

6. The merger of the cadre took place on 1.8.1990. The OA. has been filed on 2.9.1993. It is stated in para 3 of the OA. that the applicants came to know in May, 1992 that the respondents have not filled the reserved posts in the category of Shunter on the basis of reservation and had preferred representation on 7.6.1992 and after waiting 6 months, they are approaching the Tribunal within one year, hence the application is within the period of limitation.

7. It is suffice to state that it is not the date of knowledge which gives rise to a cause of action to the applicants but it is an act or omission of the respondents which gives rise to a cause of action to the respondents.

8. A delayed representation - after a period of about quarter to four years cannot revive the cause of action already accrued in favour of the applicants. It is suffice to state that examining the case with this angle, the claim of the applicant suffers not only from delay and laches but it is also barred by time as the cause of action for 1988 is being agitated in the year 1993 after about 5 years while OA. is to be filed within a period of one year from the date of accrual of cause of action.

10. Even on merits, the applicants who after merger of the cadre of Diesel Assistant to the cadre of Assistant Driver (Elect) which took place on 1.8.1988, the applicant ceases to be in the earlier cadre and possesses no locus standi to agitate the said matter now.

11. In the result, the claim of the applicants suffers from delay and laches, barred by time and the applicants have no locus standi to agitate the said matter now. Hence, OA.. is liable to be dismissed and is dismissed accordingly with no order as to costs.

Shanta

(SMT.SHANTA SHAstry)

MEMBER (A)

S.L.Jain

(S.L.JAIN)

MEMBER (J)

mrj.