

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 28/94

Date of Decision: 7.7.1999

Shri Nazir Ahmed Khan Applicant.

Shri N.M. Ganguli. Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri V.G. Bege. Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Bawej, Member (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6

PRESCOT ROAD, MUMBAI:1

Original Application No. 28/94

Wednesday the 7th day of July 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

Nazir Ahmed Khan
Al Mohiuddin Pur,
Post, Khalilabad
Dist. Basti(U.P.)

... Applicant.

By Advocate Shri N.M. Ganguli.

V/s.

1. Union of India through
General Manager
Central Railway V.T.,
Bombay;
2. The General Manager
Central Railway V.T.
Bombay.
3. The Chief Workshop Manager
Central Railway Workshop
Matunga, Bombay.

... Respondents.

By Advocate Shri V.G. Rege.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidhanatha, Vice Chairman ¶

This is an application filed under Section 19 of the Administrative Tribunals Act 1985. Respondents have filed reply. We have heard Shri N.M. Ganguli counsel for the applicant and Shri V.G. Rege, counsel for the respondents.

2. The applicant is now seeking a direction that he should get seniority in the post of Highly Skilled worker Grade I from 1962 and in the alternative he wants that he should be treated as Chargeman Grade 'B'

from 1978 and consequential reliefs.

The respondents have filed reply opposing the application and they have taken number of grounds including limitation and delay.

3. It appears that the applicant was due for promotion as Chargeman Grade 'B' in 1982 and his name was in the eligibility list. It appears that the administration has reverted him by order dated 6.11.1982 to Highly skilled Grade II and thereby he was deprived of promotion to the post of Chargeman grade 'B'. In that connection the applicant had filed a Writ Petition in Bombay High Court which came to be transferred and renumbered as TA 20/90. The only prayer in the application was that applicant's reversion to Highly Skilled Grade II was illegal and it should be cancelled and the applicant should get consequential benefits. The respondents conceded the claim of the applicant and on that basis the reversion order has been cancelled and the applicant has been restored to his original post of Highly Skilled Grade I. On that basis TA 20/90 was disposed of by order dated 6.11.1997 directing the administration to give all consequential benefits to the applicant. Accordingly the administration passed an order granting monetary benefits to the applicant after restoring him to Highly Skilled Grade I and gave promotion of Chargeman Grade 'B'. Not being satisfied with the action of the administration, the applicant filed a C.P. in this Tribunal alleging that the

administration has not paid the amount due to the applicant. The C.P. was rejected by the Tribunal by order dated 9.9.1992. Then the applicant filed a Review Petition which came to be rejected by order dated 1.12.1992 stating that the order of the Tribunal is fully complied with. Then the applicant filed an M.P. The Tribunal by order dated 8.10.1993 directed the applicant to make an application to the administration and respondents may consider the same but this direction was given purely as a matter of concession. It appears that the applicant made one more representation which came to be rejected by the administration. Hence the applicant has filed this O.A..

4. Now the applicant claims two reliefs namely he should be treated as senior from 1.10.1982 in Highly Skilled Grade I and he should be promoted to Chargeman Grade 'B' in 1978 when his junior Shri R.A. Karankekar had been promoted. These are two new reliefs raised by the applicant for the first time. These reliefs were neither raised nor pleaded in TA 20/90. Principle of Order 2 Rule 2 CPC is attracted. If a relief should have been asked and if it is not asked if cannot be asked again. Principle of constructive res-judicata is also attracted. If he wants these two prayers as fresh prayers, then the prayers are hopelessly barred by limitation, besides hit by delay and laches. We may also note that this Tribunal was constituted in 1985. This Tribunal can

consider only the disputes three years prior to the constitution of the Tribunal. In this application the applicant has raised the dispute of 1962 and it is about 23 years prior to the constitution of the Tribunal and he wants to agitate the question of promotion of 1978 which is again 7 years prior to the constitution of the Tribunal. In our view this matter cannot be agitated and that too for the first time in the present application filed in 1994. On the face of it the claim is stale and suffers from principles of delay and laches.

5. We have already pointed out that apart from delay and laches the reliefs prayed for in this O.A. are barred Order 2 Rule 2 C.P.C. and also hit by principles of constructive res-judicata. Therefore in our view the O.A. is not maintainable and no relief can be granted to the applicant. We may also mention that the applicant has retired from service in 1986 and he has filed this O.A. after 8 years in 1994. Hence taking any view of the matter the O.A. is not maintainable and no relief can be granted.

6. In the result O.A. is dismissed. No costs.

D.S. Baweja
(D.S. Baweja)
Member (A)

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman