

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:624/95

DATE OF DECISION:25.1.2000

Shri Bhargav Rajaram Virkar Applicant.

Shri V.C.Bhaya Advocate for
Applicant.

Versus

Union of India and others Respondents.

Shri P.M.A.Nair Advocate for
Respondents

CORAM


Hon'ble Shri B.N.Bahadur, Member(A)

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

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library.


(B.N. Bahadur)
Member(A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 624/95

TUESDAY the 25th day of JANUARY 2000

CORAM: Hon'ble Shri B.N.Bahadur, Member(A)

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

Bhargav Rajaram Virkar
Residing at
Plot No. 503/DI
Sector No.5, Charkop
Janaprakalap Co-Operative Housing
Society, Kandivli 'West'
Bombay

...Applicant.

By Advocate Shri V.C. Bhaya

V/s

1. Union of India through
General Manager,
Western Railway,
Churchgate, Bombay
2. General Manager
Western Railway
Churchgate,
Bombay.
3. Chief Personnel Officer
Western Railway,
Churchgate, Bombay.
4. Chief Personnel Officer
Industrial Relation,
Western Railway,
Churchgate, Bombay.
5. Senior Personnel Officer
'Welfare' Western Railway,
Churchgate, Bombay.

...Respondents.

By Advocate Shri P.M.A. Nair.



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ORDER (ORAL)

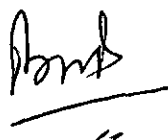
{Per Shri B.N.Bahadur, Member (A)}

This is an application made by Shri Bhargav Rajaram Virkar seeking the relief from this Tribunal as follows:

(a) That the Respondent No. 2 to 5 be directed to regularise the promotion of the applicant in the post of Welfare Inspector Grade II, from 4.7.1991 with consequential rate of proforma fixation in par, in the said post from the date applicant's junior was promoted and he be paid the arrears upto 30.9.1994, the date from which he is shouldering higher responsibilities.

(b) That after regularising the applicant's promotion in the post of Welfare Inspector Grade II, he should be called for oral selection for the post of Welfare Inspector Grade I and his name be interpolated in the list of successful candidates, if he is considered suitable for the post of Welfare Inspector Grade I.

2.....The facts of the case, in brief are that he entered the Railways as Junior Clerk in 1973, and received promotions thereafter. His grievance starts in 1991 when his junior, one Shri K.V. Desai, was promoted to the post of Welfare Inspector Grade II. The applicant who was also working as Welfare Inspector Grade III was overlooked.

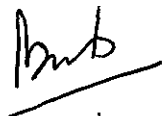


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3. We have heard counsel on both sides and the issue of limitation would first need to be considered. The learned counsel for the respondents Shri Suresh Kumar argued that this case is very badly hit by limitation and further, that no application for condonation of delay has been made. In fact the applicant states in para 3 of the OA that the application is within the limitation period. The learned counsel for the respondents cited the case of 1999(5)SLR 654 and pleads that the matter be heard on limitation first.

4. After considering all the points of the arguments made and after perusal of the facts on record we have come to the conclusion that this application is, indeed, badly hit by limitation. To explain, we find that the cause of action arose when his junior was promoted as Welfare Inspector Grade II, on regular basis i.e. on 28.11.1991. The applicant does say that he approached the Senior Personnel Officer, and was told that his performance was average. This oral representation does not save him from limitation. The learned Counsel for the applicant took pains to point out that no reply is received to his representation and relies on the letter issued on 8.5.1995 (Exhibit A) for this purpose. The filing of a representation against adverse remarks does not help the case of limitation any way in this case. Once it is held that cause of action arose when Shri Desai was promoted, the calculation for limitation must come from that date.



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5. It is obvious from the facts of the case that the application is badly hit by limitation. Also the delay is substantial and is not sought to be condoned, either, by an M.P. Under these circumstances we cannot overlook the serious flaw relating to limitation. We therefore dismiss the application. There will be no order as to costs.

S.L.Jain
(S.L.Jain)
Member(J)

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

NS