

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 999/1996

Date of Decision: 24/2/97

Jagdish Oza

Petitioner/s

Shri V.G.Fashte

Advocate for the
Petitioner/s

V/s.

Union of India & Anr.

Respondent/s

Shri S.C.Dhawan

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri P.F.Srivastava, Member (A)

Hon'ble Shri

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

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

abp.

(P.F.SRIVASTAVA)
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULISTAN BLDG. NO. 6, FREScot RD, 4TH FLR,

MUMBAI

ORIGINAL APPLICATION NO. 999/95.

LATEL THE 24TH DAY OF FEBRUARY, 1997.

CORAM : Hon'ble Shri P.P.Srivastava, Member(A).

Jagdish Oza,
residing at Jambli waka,
Near Marathi Primary School No.1..
Thane.

... Applicant.

By Advocate Shri V.G.Pashte.

v/s.

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

2. Divisional Railway Manager,
Bombay Division,
Central Railway,
Bombay V.T.

... Respondents

By Advocate Shri S.C.Dhawan.

I O R D E R I

I Per Shri P.P.Srivastava, Member (A) I

Heard Shri V.G.Pashte for Applicant and Shri S.C.Dhawan
for Respondents.

2. The applicant was posted as Guard 'C' on the Bombay
Division on 10/7/1962. The applicant worked as Guard 'C'
upto 1972 but was medically decategorised in 1972. He was
given an alternative job as a train starter which is a separate
cadre, and was thereafter posted as a Janitor as he was
declared medically unfit to work as a Guard., and he worked
in that post upto 1980. After passing the Special Medical
examination the applicant was considered for Guard's Cadre again
and post as Guard 'C' on 14/1/1981. He was given promotion
as Guard 'B' on 15/4/81. The applicant has claimed that during
1972 to 1981, his juniors in the cadre of Guard have got promotion
and his pay may be stepped up with reference to his juiors
who have been promoted during 1972 to 1981.



3. Counsel for the respondents argues that the applicant was medically decategorised and was not working in the grade of Guard during this period. The pre-conditions laid down for stepping up of pay under FR-22c are not satisfied and as per the Full Bench judgement, B.L.Somayajulu, and Ors v/s. The Telecom Commission and Ors in 1997(1)A.T.J. 1 decided on 20/11/96, the applicant cannot be given stepping up of pay with reference to his juniors unless the preconditions are satisfied. Counsel for applicant has argued that he was never medically decategorised but was temporarily given alternative job. However, the record does not show this to be correct. We are therefore of the view that the conditions for stepping up of pay under FR-22c are not satisfied in this case.

4. There is a question of delay also here. It is seen that the applicant's pay fixation was done in 1981 and although he has represented from that time onwards he has been categorically told that his fixation with reference to his juniors cannot be done. The applicant was given final reply in 1991 which is placed at Annexure R-2. Afterwards, the applicant has waited for 4 years upto 1995 before filing this OA. The question of delay has not been explained by the applicant satisfactorily.

5. The OA is therefore devoid of any merit and is also barred by limitation. On both these grounds, the OA is dismissed.


(P. P. SRIVASTAVA)
MEMBER (A)

abp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO.49/97 in OA.NO.999/95

Dated th
this the 16 day of September 1997

CORAM: Hon'ble Shri P.P.Srivastava, Member (A)

Jagdish Oza ... Applicant

V/S.

Union of India & Ors. ... Respondents

Tribunal's Order by Circulation

In this review petition no new facts have been brought out which were not before the Tribunal when the OA. was decided. All though the review petitioner mentioned at various places an error has been committed, in fact, what the review petitioner is saying is that the finding of the Tribunal is erroneous. The OA. was dismissed on merit as well as on limitation. I am of the opinion that the applicant has not brought out any material in the review petition which would warrant review of the judgement. The review petition is, therefore, dismissed in limine.


(P.P. SRIVASTAVA)
MEMBER (A)

mrj.

dd. 16/9/97
order/Judgement despatched
to AP 30/9/97, ident(s)
on 30/9/97

6/10/97