

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1083/95

DATE OF DECISION: 20/6/2000

Shri Ashok Kumar M Sonawat Applicant.

Shri K.B.Talreja

-----Advocate for
Applicant.

Versus

Union of India & 3 Ors

-----Respondents.

Shri S.C.Dhawan

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri L.Hmingliana, Member(A).

Hon'ble Shri Rafiquddin, Member(J)

1. To be referred to the Reporter or not?

Yes

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

No

3. Library.

L.Hmingliana
(L.HMINGLIANA) 50624
MEMBER(A)

abp

Per Shri L.Hmingliana, Member(A)

The Applicant is a Fitter Grade-II under the Central Railways and serving at Kalyan. His prayer is for his promotion ahead of Respondent No.4 and for stepping up his pay to that of the same Respondent-4.

2. The Applicant joined services as Fitter Grade-III on 8/12/1980, and Respondent No.4 came to be promoted to Fitter Grade-III much later on 19/4/1985 but he (Respondent No.4) was immediately promoted to Grade-II on 1/7/1985, whereas the Applicant got his promotion as late as on 1/1/1990.

3. It is the case of the Applicant that he was No.2 in seniority in Fitter Grade-III, whereas Respondent No.4 came to be appointed to the Grade much later on 19/4/1985 and therefore he should be given promotion before him (Respondent No.4).

4. For his claim to seniority over Respondent No.4, the applicant relies on the document at page No.6 which is purportedly the seniority list of Mechanic Fitter Grade 950-1500, which was the payscale of Fitter Grade-III. The document has been produced without the covering letter and his Learned Counsel Shri K.B.Talreja produced copy of a circular letter dated 19/21.10.1992 saying that this was the covering letter of the document at page-6. There is no dispute that at one time, the applicant was senior to Respondent No.4.

5. However, Shri S.C.Dhawan, Learned Counsel for Respondents

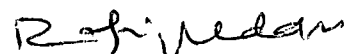
pointed out the statement in the reply filed on behalf of Respondents that the Applicant who was at Sr.No.2 in seniority had opted in 1986 for being posted outside the cadre of Over Head Equipment (OHE) and to be absorbed in Diesel Cadre and that his

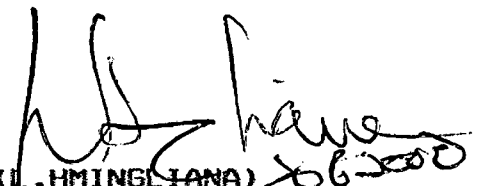
...3.

request was accepted by the Respondents, but by letter dated 16/1/1988 he, alongwith others once again requested to be brought back to their original cadre of Tower Wagon Mechanic in the OHE department and that he can no longer claim to be No.2 in seniority in Grade III.

6. In view of the clarification given by the Respondents in their reply, there is no case for grant of relief to the Applicant. The plea of limitation has also been raised by the Respondents in their reply. Respondent No.4 was promoted in 1985 and the OA was filed in 1995. Shri Talreja stated that the applicant came to know about the promotion of Respondent No.4 within one year prior the date he filed the OA as Respondent No.4 was posted at another distant place. The explanation given by the Learned Counsel for the Applicant is not acceptable. There is no application for condonation of delay and the Application has to be dismissed even on the simple point of limitation. Even on merits, we find that the Applicant has no case for claiming seniority above Respondent No.4, as he had lost his seniority by opting out of the cadre for some time. It is true that he returned to the cadre, but not necessarily to the same position of seniority. Then there is no merit in his application.

7. The application is dismissed. No costs.


(RAFIUDDIN)
MEMBER(J)


(L. HMINGLIANA) 26-200
MEMBER(A)

abp

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REGISTRATION NO. Review Application No. 3 of 2001
(Arising out of order dt. 20.6.2000 passed in OA 1083/95)

Shri Ashok Kumar.M. Sonawat Applicant.

Versus

Union of India & Others Respondents.


ORDER BY CIRCULATION

DL 27-04-01

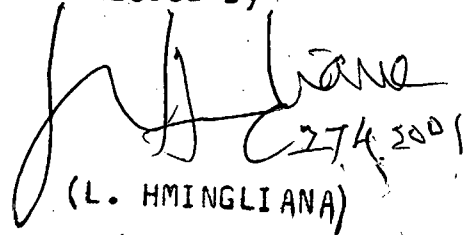
By L.Hmingliana, M(A) :- This review application
No. 3/01 in OA 1083/95 has to be dismissed on the
ground of limitation for the following reasons;

The order of the Tribunal which is sought to
be reviewed was pronounced on 20.6.2000. The applicant
received a copy of the order on 30.6.2000. He filed
the review application on 15.1.2001, which was when
the period of five months and 14 days had already
elapsed after the period of limitation was over. The
applicant filed MP 41/2001 for condonation of delay,
stating that due to the death of his father on 3.6.2000,
he was busy for a month for performing his death
ceremony, ^{and} because of serious dispute about the
property matter, he was away at Aligarh, and he
returned in the middle of December, 2000. That is not
^a the valid excuse for delaying filing of the review
application so abnormally, and there is no sufficient
reason for condonation of delay.

2. The review application is dismissed by
circulation.


(REFIQUDDIN)
MEMBER (J)

/CBS/


(L. HMINGLIANA)
MEMBER (A)

Order/Document despatched
to Applicant/Respondent(s)
on 29/6/2001

(7)
29/7/2001