

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 735 of 1997.

Dated this Friday, the 3rd day of August, 2001.

Mrs. Shubhangi Jayant Naik, Applicant.

Shri T. D. Ghaisas, Advocate for the
Applicant.

VERSUS

Union of India & Others, Respondents.

Shri S. C. Dhavan, Advocate for
Respondents.

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

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

- (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. No



(B. N. BAHADUR)
MEMBER (A).

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CORAM : Hon'ble Shri B. N. Bahadur, Member (A)
Hon'ble Shri S. L. Jain, Member (J).

Mrs. Shubhangi Jayant Naik,
Railway Service,
Residing at -
124, Ganesh Niketan,
Dr. M. B. Raut Road,
Shivaji Park, Dadar,
Mumbai - 400 028.

Applicant.

(By Advocate Shri T. D. Ghaisas)

VERSUS

1. *Union of India through
The General Manager,
Central Railway,
Mumbai C.S.T. 400 001.*
2. *Chief Personnel Officer,
Central Railway,
Mumbai C.S.T. - 400 001.*
3. *Divisional Railway Manager,
Central Railway,
Mumbai C.S.T. 400 001.*
4. *Sr. Divn1. Personnel Officer,
Central Railway,
Mumbai C.S.T. - 400 001.*
5. *Shri A. G. Athavale,
Chief Catering Inspector,
Sr. DCM's Office,
Mumbai C.S.T. - 400 001.*
6. *Mrs. Sandhya S. Achalkar,
Chief Catering Inspector,
Pune Station, Pune.*

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7. Mrs. N. M. Somaney,
Office Supdtt. (II),
Sr. DCM's Office,
Mumbai C.S.T. - 400 001.

8. Mrs. N. V. Pakhare,
Office Supdtt. (II),
Sr. DCM's Office,
Mumbai C.S.T. - 400001. Respondents.

(By Advocate - Shri S. C. Dhavan)

O R D E R (ORAL)

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Mrs. Shubhangi Jayant Naik, seeking the relief from this Tribunal, in substance, that her promotion made on ad hoc basis to the post of Office Superintendent has to be treated as one on regular basis w.e.f., 17.05.1991. Also that a declaration be made by the Tribunal that Applicant is entitled to be included at sl. no. 5 in the panel published on 07.12.1990 (Exhibit 'C').

2. The facts of the case are that the Applicant had been considered in the selection process, through which a panel was drawn up for promotion to the post of Office Superintendent (II) in 1990 (Exhibit 'B'). A subsequent selection process in 1991 was also taken up. In both these selection processes, the Applicant had not been empanelled. Another subsequent selection process undertaken in 1997 empanelled the Applicant and provided her with the promotion post with effect from June, 1997.



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3. The grievance of the applicant, in substance, is that her ad hoc promotion made vide order dated 17.05.1991 (Exhibit 'A') should, in fact, be construed to be a regular order from that date. At the very outset, we found that the issue of limitation stares us in the face. Accordingly, this point was raised and argued by the Learned Counsel for the Applicant. It was his contention that the applicant had made a number of representations from 1991 onwards and no reply had been given. Further, it is contended by the Learned Counsel, Shri Ghaisas, that the cause of action arose in 1997, since on no occasion she had been reverted till then and had continued on the (higher) post, albeit on ad hoc basis.

4. The fact of the matter is that these contentions and arguments cannot be sustained by any stretch of imagination. The Applicant comes up in this O.A., which is filed on 06.08.1997, in grievance against the selection process of 1990. In fact, even during arguments, grievance is made against the 1991 selection. It is extremely difficult to accept any excuse, least of all the contentions made before us, to overlook this delay. In fact, the Applicant in her application has stated at para 3 that the application is within time; and there is no application filed for condonation of delay either. It is also to be remembered that if the relief sought is granted, such orders will affect the

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seniority of a number of other people. The Applicant cannot be so light hearted as to sit over her grievance for some seven years, and later after she is promoted in 1997, and after she takes charge on regular basis on the promoted post, she decides to come up to this Tribunal to redress her grievance, which has arisen in 1991. The Hon'ble Supreme Court has time and again commented on this aspect of limitation and there is no ground made before us for condonation of the limitation. There is no application for condonation and the case of Ramesh Chand Sharma v/s. Udhamp Singh Kamal decided by Hon'ble Supreme Court is relevant ^{to} in this case (reported at 2000 SCC (L&S) 53).

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5. Learned Counsel for the Respondents, Shri S. C. Dhavan, clarified some of the points, on merits, that were raised before us. But since we are disposing this O.A. on the point of limitation, we are not going into the merits of the case. He of course raised the point of limitation.

6. It is seen that the Applicant has arrayed four private Respondents listed at R-5 to R-8. One of them (s1. no. 6) has not been served properly. However, we need not order fresh service since we are disposing the matter on limitation. The

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official Respondents, however, are directed to serve a copy of the order on Respondent No.6, under the peculiar circumstances of the case.

7. In view of the above discussions, this O.A. is hereby dismissed as being badly hit by limitation. No order as to costs.

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

B. N. BAHADUR

(B. N. BAHADUR)
MEMBER (A).

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