

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

For the twelfth day of May
ONE THOUSAND NINE HUNDRED AND EIGHTY NINE

: PRESENT :

THE HON'BLE MR. B.N. JAYA SIMHA : VICE-CHAIRMAN
AND

THE HON'BLE MR. D. SURYA RAO : MEMBER (JUDL.)

~~Old~~ Miscellaneous Application no. 9/89 and
ORIGINAL APPLICATION NO. 8 OF 1989

BETWEEN:-

R.V. Radhakar ✓

AND

1. the Chief Personnel Officer,
South Central Railway,
Railnagar, Secunderabad ✓

2. the Superintendent,
Printing and Stationery,
South Central Railway, Secunderabad ✓

3. the General Manager,
South Central Railway,
Railnagar, Secunderabad ✓

4. The Secretary, Ministry of
Railways, Railways Board,
New Delhi. ✓

in both the applications
Applicants

(Applicant in no. 8/89
on the file of the
Tribunal)

... Respondents in
the applications.
Respondents in

Q.A. NO. 8/89

Application under section 19 of the Administrative Tribunal

Act 1985 praying that in the circumstances of ~~the case~~ stated
then in the Tribunal will be pleased to direct the respondent
to fix the ~~pay~~ applicant's pay as foreman in the grade ~~Rs~~
Rs 700-900 (RS) at Rs 900/- promoting him from 1971 when he
actually due for promotion as foreman and give all consequential
benefit and regularization of his pension in the above grade.

W.M.B.S.

M.A.NO.9/89 & O.A.8/89

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Judgment prepared by Hmcj) Sri D.Surya Rao
is typed and submitted for perusal and
approval please.

sd/ 21/5/89
(S.C.Hussain)

Hmcj)

HMC Surya Rao
Judgment

for
21/5/89

Circulate to
ADM VC &
if approved
post-for Judgment

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MISCELLANEOUS APPLICATION NO. 9 of 1989

AND

ORIGINAL APPLICATION NO. 8 of 1989

(Judgment of the bench delivered by Sri D.Surya Rao?
Member (Judicial))

1. The applicant herein while working as Foreman in the Printing and Stationery Press under the administrative control of the Superintendent, Printing Press, South Central Railway, retired from service in the year 1981. The applicant's grievance in the main application O.A.No. 8 of 1989 is that he was called for a test for the post of Chargeman Gr.II (Scale 205-280) in 1968 that he was successful therein and was placed no.2 in the panel. Before the Panel was published his junior one Laxmaiah was promoted as Chargeman Gr.II in June 1968. This was rectified after an appeal/representation to the Chairman, Railway Board and the applicant was promoted in 1973 and placed above Laxmiah. The panel was actually published only in 1977. The applicant states that due to delay in publishing the panel he could not get promotion to Chargeman Gr.II in June 1968. Between June 1968 and 1977 i.e. date of publishing the panel a selection took place in 1972 for selection to the post of Foreman (700-900). This panel was published 6 years later in 1978. One Ghulam Rasool who was not

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eligible for promotion as Foreman was promoted in 1972 even though he was not eligible for selection. The applicant's grievance is that due to late publication of the panels of Chargeman Gr.II (9 years delay) and Foreman (6 years delay), the applicant who ought to have got promotion to the posts of Chargeman II (205-280), Chargeman Gr. I (200-380) and Foreman (375-460) in the years 1968, 1969 and 1971, whereas he got promotion as Chargeman II only in 1973 and as Foreman in 1977. He contends that grave injustice was thereby caused to him and consequently due to frustration he applied for voluntary retirement in the year 1981. He now seeks a direction from the Tribunal that the Respondents should fix his pay as Foreman at Rs.900 in the grade Rs.700-900 after promoting him as such in 1971 and give him all the consequential benefits and refixation of pension.

2. Alongwith the application O.A.8/89, a petition M.A. No.9/1989 has been filed for condoning the delay of 3 years, 6 months and 4 days in filing the application. The applicant states that he submitted representations to the Railway Board on 19-3-1985 and 16-2-1986 and to the Chief Personnel Officer on 19-10-1987 and 15-12-1987. He was informed by the Chief Personnel Officer on 28-12-87 that the application was with the Railway Board. The

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applicant contends that the limitation commences one year from 2-6-1984 when he received a communication from the C.P.O., i.e. from 2-6-1985 and seeks condonation of the delay which he computes from that date as 3 years, 6 months and 4 days.

3. The respondents have filed a counter stating that the C.P.O., by letters dated 27-3-1982, 2-8-1983, 5-11-1983 and 2-6-1984 in effect rejected the applicant's claim. He, thereafter, made representations to the Railway Board in 1985 and 1986 which were not replied to. In 1987 when the applicant again approached the C.P.O., the latter merely advised the applicant that the matter is resting with the Railway Board and this is no disposal of his case. Hence, the application cannot seek to count limitation from the date of this intimation by the C.P.O.

4. We have heard Sri Krishna Rao, Advocate for the applicant and Sri N.R. Devaraj, Addl. Standing Counsel for the Railways. Both the applicant and the respondents are treating the order dt. 2-6-1984 passed by the CPO as the final order passed rejecting the claim of the applicant. No doubt the applicant preferred a representation to the Railway Board in 1985 and 1986 but no orders were passed thereon. Hence, the cause of action

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having arisen during a period 3 years prior to the constitution of this Tribunal (1-11-1985) ought to have filed his application within 6 months after the constitution of the Tribunal i.e. by 1-5-1986 vide Section 21 of the Administrative Tribunals Act.

He has not satisfactorily explained why he did not file the application within this period or at any time thereafter. All that the applicant states is that the respondents have chosen to keep his case pending, that the Tribunal can entertain the application and cannot treat it as time barred. This explanation is no explanation. If the respondent-Railway Board did not dispose of the applications/representations then it was the duty of the applicant to approach the Tribunal within the period of six months i.e. between 1-11-1985 and 1-5-1986 as provided under section 21 of the Administrative Tribunals Act. His failure to do so will not suit him. Both the M.A.9/1989 and consequently O.A.8/1989 are accordingly dismissed. In the circumstances of the case, there will be no order as to costs.

B.N.Jayashimha
(B.N.JAYASIMHA)

Male Chairman

D.Surya Rao
(D.SURYA RAO)
Member (Judl.)

Dt. 12th May, 1989.

SQH*

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S. Venkateswaran
Deputy Registrar (F.G.J)
17/17

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