

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 31/12/2002

OA 15/2002

Abdul Sattar, Senior Khalasi O/o Sr. Section Engineer, W/Rly, Jaipur.

... Applicant

Versus

1. Union of India through General Manager (East), W/Rly, Churchgate, Mumbai.
2. Divisional Rly Manager, W/Rly, Jaipur.
3. Divisional Electrical Engineer, W/Rly, Jaipur.
4. Siraj Ahmed, ERA (Power) O/o Sr. Section Engineer (Power), W/Rly, Jaipur.

... Respondents

CORAM:

HON'BLE MR. JUSTICE G.L. GUPTA, VICE CHAIRMAN

HON'BLE MR. A.P. NAGRATH, ADM. MEMBER

For the Applicant

... Mr. K.L. Thawani

For Respondents No. 1 to 3

... Mr. B.K. Sharma

For Respondent No. 4

... None

O R D E R

PER MR. A.P. NAGRATH

The applicant, who is holding the post of Senior Khalasi in grade Rs.800-1150 (as revised to Rs.2650-4000), has prayed for the following reliefs in this OA :

- "1) That the impugned order Ann.A/1 be quashed being violative of Articles 14 & 16 of the Constitution of India and principles of natural justice.
- 2) That the respondents be directed by issuance of an appropriate order or direction to grant promotion to the applicant from the date his junior Siraj Ahmed has been promoted in Grade-III, II and I."

2. It is apparent that Shri Siraj Ahmed, whom the applicant contends as his junior, is already in Grade-II and vide impugned order he had been called to appear for trade test for further promotion to Grade-I in the pay scale of Rs.4500-7000. Obviously, when he was promoted to Silled Grade-III i.e. Rs.3050-4590 (erstwhile grade of Rs.950-1500) and further to Grade-II i.e. Rs.4000-6000 (erstwhile grade of Rs.1200-1800) the applicant did not represent against the said promotions. From the face of it, it can be safely stated that the applicant is now attempting to assail the promotion orders of Shri Siraj Ahmed at such a belated stage. Such a stale claim is not entertainable as the same is barred by limitation as it attracts the

provisions of Section-21 of the Administrative Tribunals Act, 1985 (for short, the Act). It is a different matter that the applicant has declared this application as within the limitation period as prescribed under Section-21 of the Act.

3. The learned counsel for the applicant argued at great length to emphasise that the applicant was senior to Shri Siraj Ahmed (Respondent No.4) as he had been engaged initially as a Substitute on 4.6.81, whereas Shri Siraj Ahmed was engaged on 26.4.82. He also drew our attention to a document dated 1.4.86 (Ann.A/2), wherein it has been stated that Shri Siraj Ahmed, alongwith two others, may be discharged due to no vacancy. Relying on this document, the learned counsel stated that the conclusion was obvious that the applicant was senior to Shri Siraj Ahmed because as on 1.4.86 he was allowed to continue while Shri Siraj Ahmed was discharged. Regarding inability of the applicant to agitate the matter in time, the learned counsel submitted that it was only now, when the impugned order dated 21.12.2001 (Ann.A/1) was issued inviting respondent No.4 for trade test for promotion to pay scale of Rs.4500-7000, that the applicant came to know that he had all along been ignored for promotions to the posts of Grade-III & Grade-II. According to him, the applicant could not seek any redressal earlier because he was totally unaware of the promotions given to respondent No.4.

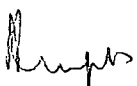
4. Such a plea, in our considered view, has been taken simply to be rejected. If an employee sleeps over his rights for a number of years, he cannot be heard to say that he came to know of the adverse position only recently and that there was no notice to him in so far as earlier orders are concerned.

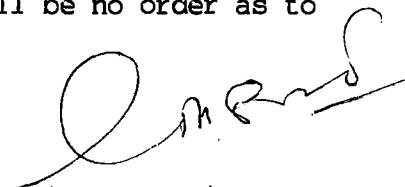
5. Even on merits, we find there is no case in favour of the applicant. The respondents in their reply have clearly stated that though the applicant was engaged earlier than respondent No.4 but respondent No.4 was granted temporary status on completion of 120 work days w.e.f. 28.8.82, whereas the applicant was granted temporary status only w.e.f. 6.10.82 vide common order dated 11.3.83. Subsequently both, the applicant and respondent No.4, were regularised in Group-D by common order dated 13.8.87 and in that order also respondent No.4 was placed above the applicant i.e. at S.No.13, whereas the applicant was placed at S.No.16. This is proof enough that right from the very beginning the applicant remained junior to respondent No.4 even when they were granted temporary status as also when they were regularised in Group-D. Admittedly, the applicant never challenged that position. Since he has decidedly been shown junior to respondent No.4 in

Group-D, he cannot make a grievance if his senior is promoted to Skilled Grade-III, Grade-II & Grade-I, while he still continues to hold the post of only a Senior Khalasi.

6. A reply has also been filed by respondent No.4, who has given the dates of his promotions to Grade-III & Grade-II. He was promoted to Grade-III i.e. pay scale of Rs.950-1500 vide order dated 9.7.92. He was further promoted to the pay scale of Rs.1200-1800 vide order dated 7.5.94. We would like to say it again, even on the cost of repetition, that at every stage the applicant failed to challenge any of the orders, be it assigning seniority in regular Group-D post lower than respondent No.4 or promotions to Grade-III & Grade-II. These facts have been clearly brought out by the official respondents and respondent No.4 in their replies and have not been refuted by the applicant at all. The official respondents have also gone on to explain that when the applications were invited for the trade test for the post of ERA Grade-III, respondent No.4 had duly applied and participated, whereas the applicant did not apply at all. It is not necessary for us to scrutinise this aspect of the case for the reason that respondent No.4 has all along been treated as senior to the applicant and at no earlier occasion his position was ever assailed by the applicant.

7. The applicant has failed to make out any case in his favour. This OA is without any merit and dismissed. However, there shall be no order as to costs.


(A.P. NAGRATH)
MEMBER (A)


(G.L. GUPTA)
VICE CHAIRMAN