

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 28.09.2000

OA No.165/1995

Girraj Kishore Gaur S/o Shri Daya Ram, last employed on the post of Sr. Clerk in Carriage and Wagon Shop, Ajmer, Western Railway.

.. Applicant

Versus

1. Union of India through its General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ajmer Division, Ajmer
3. The Deputy Chief Mechanical Engineer (Carriage), Western Railway, Ajmer Division, Ajmer

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

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CORAM:

Hon'ble Mr. S.K. Agarwal, Judicial Member

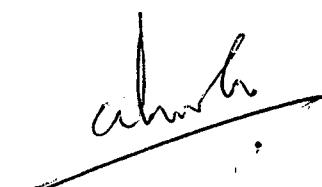
Hon'ble Mr. N.P. Rawani, Administrative Member

Order

Per Hon'ble Mr. N.P. Rawani, Administrative Member

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant seeks following reliefs:-

"(i) That impugned order dated 23.11.93 (Ann.A1) rejecting the claim of applicant may be declared illegal and the same may be quashed. The respondents may be directed to rectify the pay of applicant on the post of Sr. Clerk according to rules and applicant be allowed all consequential benefits including arrears of difference and revision of pensionary benefits.

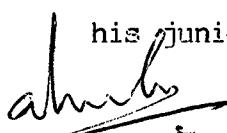
  
In the alternative

The applicant's pay on the post of Sr. Clerk may be stepped up on par with his junior Shri Bheru Lal and allow him due arrears of difference."

2. We have heard the learned counsel for the applicant and have also gone through the entire material on record. After careful consideration of all this, we feel that the only question to be decided in this OA is whether the pay of the applicant on his promotion to the post of Senior Clerk was not correctly fixed, as it should have been fixed at par with his junior Shri Bheru Lal.

3. The applicant is challenging the letter dated 23.11.1993 (Ann.A1) through this OA presented on 19.4.1995 and the OA is, therefore, barred by limitation. No application for condonation of delay has also been filed. The OA should have appropriately been dismissed on this ground alone.

4. The applicant has not been able to make out any convincing case on merits also. He has also not approached the Tribunal with clean hands. As per his averment he was regularised on promotion on the post of Sr. Clerk effective from 11.6.1986 whereas as per respondents, he was regularised on 24.10.1991. Again it is averred by the applicant that he submitted his option vide his application dated 23.11.1991 (Ann.A3) which was duly acknowledged by the O.S. Time Office but according to the respondents, it was submitted on 17.11.1993. To cover up, the applicant annexes as Ann.A3 a letter which is undated and carries no acknowledgment. No rejoinder has obviously been filed by the applicant. It is quite clear that instead of giving his option within one month of the order of promotion i.e. within 24.11.1991, the applicant submitted it on 17.11.1993. The applicant alleges that the pay of one Bheru Lal, his junior, has been fixed at a higher level than his but it has



been explained by the respondents that all the employees promoted vide letter dated 04.10.1991 were called upon to submit their options within one month and obtain, if they so wished, the benefit for such option. Bheru Lal was also one of them who submitted his option. If the applicant did not submit his option within the prescribed time limit, did not even request for any extension and ultimately submitted it almost after two years, he cannot hope to get the same benefit as others who submitted the option in time and cannot certainly claim any discriminatory treatment meted out to him. We are also of the opinion that if at all, the pay fixed in respect of the applicant turned out to be at a lower stage than Bheru Lal, it was due to non-submission of option and it is not a case where pay fixation is required to be regulated under FR 22-C (now FR 22 (I)(a)(1)). In any case the applicant has not annexed any seniority list, not even the order(s) showing regular promotions granted to the applicant and Shri Bheru Lal and has, therefore, not established that he was senior to Bheru Lal. Thus, the applicant has not only been guilty of delay and latches in filing this OA, he was sleeping over the matter relating to submission of his option which he ultimately submitted almost two years after the last date instead within one month as prescribed.

5. In the result, we find that the OA is not only time-barred but also does not succeed on merits and is, therefore, dismissed with no order as to costs.

  
(N.F. NAWANI)

Adm. Member

  
(S.K. AGAFWAL)

Judl. Member