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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH
J A I P U R.

OA NO.55/1995

Date of order: 17-5-1996

Gordhan Das Ramchandani

: Applicant

vs.

1. Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Financial Adviser & Chief Accounts Officer, Western Railway, Churchgate, Bombay.
3. Deputy Chief Accounts Officer (Works & Stores) Western Railway, Ajmer.

: Respondents

Mr.N.K.Gautam, counsel for the applicant
None present for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

The applicant Shri Gordhan Dass Ramchandani has filed this application under Section 19 of the Administrative Tribunals Act, 1985 to seek a declaration that 7 years service of the applicant in the Special Police Establishment Department prior to joining Respondent Railways is countable towards his qualifying service alongwith his 23 years service with the Respondent Railways with a further direction to the respondents to re-calculate the qualifying service of the applicant accordingly and to award him all retiral benefits on that basis from September, 1979 onwards.

2. Facts leading to this application in short and
as alleged by the applicant are that the applicant was

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initially appointed as Temporary Police Constable in the Special Police Establishment Department at Jaipur on 28.3.1949. While he was working with the S.P.E. he applied for railway service through proper channel and was selected for the post of Clerk by the Respondent Railways. On selection he was spared to join the Respondent Railways by the S.P.E. Department Jaipur on 8.5.1956 vide Annexure A-2. The applicant accordingly joined Railways on 9.5.1956 as a clerk and was confirmed there later-on. It is the case of the applicant that while working with the Railways SP/SPE Jaipur vide his letter dated 28.2.1959 (Annx. A-3) advised the Railway Department to make necessary entries in the service-sheet of the applicant as he had done good work while working in the SPE Department. The applicant retired on 31.8.1979 on attaining the age of superannuation while working as Clerk Gr.I under respondent No.3. It is the grievance of the applicant that while calculating the qualifying service of the applicant, respondent No.3 counted only 23 years of Railway service excluding his seven years service in the SPE Department and accordingly fixed his pension and paid him D.C.R.G. He requested respondent No.3 to count the above 7 years service with the SPE in the qualifying service but his request was regretted vide letter dated 1.9.1980 (Annx. A-4). On his request to examine his case, again respondent No.3 made enquiries from him vide letter dated 12.10.1987 to which he replied vide his letter dated 20.10.1987. Respondent No.3 after 8 years again regretted the request made by the applicant vide his letter dated 29.10.1988 (Annx. A-7).

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Thereafter the applicant submitted another representation upon which respondent No.2 i.e. Financial Adviser and Chief Accounts Officer, Western Railway, Churchgate Bombay vide his letter dated 4.9.1991 (Annx.A-8) again regretted the request made by the applicant. The applicant submitted his representation further on to the Joint Director(Establishment)(Representations), Rail Bhawan, New Delhi vide his representation dated 14.1.94 (Annx.A-1) but this representation also went without any response. It is further the case of the applicant that vide D.O.letter from General Manager, Western Railway, Churchgate, Bombay dated 27.9.94 which was addressed to Prof. Rasa Singh Rawat, M.P. it was advised that counting of the service of the applicant prior to 9.5.1956 is not possible. Aggrieved, the applicant has filed this application to claim the aforesaid relief.

3. The respondents have contested this application by filing a written reply to which the applicant has also filed a rejoinder. The respondents have opposed this application on the basis of it being ^{time}/barred and also on merits. It has been claimed by the respondents that since the claim advanced by the applicant was first denied in the year 1956 and thereafter in the year 1980, the present application is not within limitation. It has also been urged that since the applicant had retired from the Railway service in the year 1979, this application preferred after 16 years is not maintainable as there has been no justification for filing this application with such an inordinate delay. It has been specifically averred by the respondents that his request for counting the services

rendered by the applicant in the SPE Department having been rejected as early as in the year 1956 and thereafter in the year 1980, the letter written by the General Manager to the sitting Member of the Parliament Annexure A-9 does not extend the period of limitation and that the application is liable to be rejected on this ground alone. It has also been averred by the respondents that the certificate relied upon by the applicant as at Annexure A-2 on 28.3.1988 does not indicate that the applicant had applied to the Respondent Railways through proper channel or that he was allowed to resign from SPE Department and thereafter to join the Railway service. It has also been averred that the applicant has been given the benefit of pension and DCRG in accordance with the qualifying service rendered in the railways and that counting of the service rendered by the applicant in SPE Department is not permissible in any manner as was explained to the applicant not only in the year 1956 but also in the year 1980. It has further been urged that the applicant was for the third time informed in the year 1988 by letter dated 29.10.1988 (Annx.A-7) that his request for counting the service rendered in the SPE Department cannot be acceded to but still the applicant has been making unnecessary representations and the application now made after 39 years from the date when the cause of action arose for the first time^{and} after 15 years when his representation was rejected by the Respondent Railways. It has, therefore, been urged that the OA is without any basis and that it should be rejected after awarding exemplary costs.

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4. We heard the learned counsel for the applicant as none was present for the respondents inspite of due notice. We have examined the pleadings of the parties and record in great detail.

5. It has been vehemently urged by the learned counsel for the applicant that since the respondents have finally rejected his prayer vide letter dated 29.9.1994 (Annx.A-9) addressed to Shri Rasa Singh Rawat. M.P. this application filed by him is within limitation. It has also been urged that if the applicant is not granted the relief prayed for in this application he would be greatly prejudiced being a low paid employee.

6. We have given due consideration and anxious thought to the arguments advanced by the learned counsel for the applicant.

7. According to the pleadings of the applicant himself, it is clear that the relief claimed by the applicant to count the 7 years of his service with the SPE Department was rejected by respondent No.3 as early as on 1.9.1980 vide letter Annx.A-4 and thereafter by letter dated 29.10.1988 (Annx.A-7). Respondent No.2 also rejected his claim vide his letter dated 4.5.1991 (Annx.A-8). The contention of the respondent railways that the applicant's request was rejected as early as in the year 1956 and thereafter on the dates specified

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by the applicant in the OA has great substance. From the perusal of letter dated August/1.9.1980 (Annex.A-4) it is abundantly clear that respondent No.3 while rejecting once again his applications dated 24.10.1979 and 20.12.1979 pointed out that the Deputy CME (Loco) Ajmer has already informed him vide letter No.EG/572 dated 26.6.1956 that the service rendered by him in the office of Special Police Establishment cannot be reckoned towards his employment in the Railways. This has further been reiterated by the respondents vide their letter dated 29.10.1988 (Annex.A-7) followed by letter dated 4.9.1991 (Annex.A-8) whereby his representation made on 4.8.1991 was rejected wherein it has been indicated that in view of Ministry of Home Affairs letter dated 31.3.1982 his previous services rendered with the SPE Department for pensionary benefits prior to joining the Respondent Railways cannot be considered since he retired prior to 31.3.1982. We are of the firm view that the applicant has been harping upon a matter which stood closed as early as in the year 1956. It is also the settled law that repeated representations do not extend the limitation. Reference in this regard may be made to the judgment of Hon'ble the Supreme Court in the case of S.S.Rathore Vs. State of M.P., AIR 1990 S.C.10 wherein it has been laid down that repeated unsuccessful representations not provided under law do not extend period of filing an application. Moreover, it ~~is~~ also the settled principle of law that law does not come to the aid of an individual who sleeps over his rights. In Union of India Vs. Harnam Singh (1993) 24 ATC 92 it

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has been held by Hon'ble the Supreme Court that:

"The law of limitation may operate harshly but it has to be applied with all its rigour and the Courts or Tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire."

In the instant case the cause of action to the applicant arose as early as in the year 1956. It was, therefore, incumbent upon him to have approached the competent forum at that time. His representations made thereafter and rejected by the respondents in the year 1980, 1988 and in the year 1991 cannot be construed to have extended the period of limitation; more so when under the Administrative Tribunals Act the law of limitation has been statutorily laid down under Section 21. The argument of the learned counsel for the applicant that since communication dated 29.9.94 (Annex A-9) enables the applicant to approach the Tribunal to claim the relief sought for in this OA, is also without any merit. The reasons are two fold. Firstly, this communication has been addressed by the General Manager to Shri Rasa Singh Rawat, M.P. in response to his letter dated 1.5.1994. This communication simply informs the factual position of the case of the applicant and can in no way be treated to have re-opened the matter of counting the service rendered by the applicant in the SPE Department, Jaipur. Secondly this communication has not been addressed to the applicant nor it gives out that through this communication only the request made by the applicant earlier to the Respondent Railways has been finally rejected.

In view of above, we are of the considered
a opinion that this application filed by the applicant

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is not only highly belated but is barred by Section 21 of the Administrative Tribunals Act, 1985. In view of this statutory bar, it needs no consideration on merits.

For all the aforesaid reasons, this application being without any merit is dismissed with no order as to costs.



(RATAN PRAKASH)
MEMBER (J)



(O.P. SHARMA)
MEMBER (A)