

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 2/3/2011

OA 403/96

Inder Prakash, Progress Man Artisan under Dy.CME, C&W,
Western Railway, Ajmer.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Fly Manager, W'Fly, Ajmer Dn., Ajmer.
3. Dy.Chief Mechanical Egnineer, W'Fly, Ajmer Division, Ajmer.

... Respondents

CORAM:

HON'BLE MR.S.K.AGAFWAL, JUDICIAL MEMBER

HON'BLE MR.H.P.IAWANI, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.Shiv Kumar

For the Respondents ... Mr.Hemant Gupta, proxy counsel
for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.S.K.AGAFWAL, JUDICIAL MEMBER

In this OA filed u/s 19 of the Administrative Tribunals Act, 1985, applicant makes a prayer to quash and set aside the impugned order dated 27.9.95 (Ann.A/1) and to direct the respondents to treat the applicant an employee of Fitter category in accordance with Ann.A/2, with all consequential benefits.

2. Brief facts of this case, as stated by the applicant, are that he was initially appointed as Khalasi on 28.8.65 and he has passed the trade test of Fitter Grade-III vide order dated 21.7.80 and his pay was also fixed accordingly. Since then the applicant is working as Fitter Grade-III. It is stated that the respondents are taking the job of Welder from the applicant. The applicant made number of representations but with no result. It is stated that the applicant was never appointed as Welder but the respondent department is compelling him to appear in the test of



Welder but the applicant is not willing to appear in that test as he belongs to the Fitter category. Therefore, the applicant has filed this OA for the relief as above.

3. Reply was filed. It is stated in the reply that this application is suffering from delay and latches. The applicant has stated to have passed the trade test in the year 1980 but he has filed this OA in the year 1996. Therefore, this OA for claiming the benefit from the year 1980 is hopelessly barred by limitation and liable to be rejected on this ground alone. It is also stated that the applicant was never appointed as Fitter but he was appointed as Welder after passing the trade test on 5.6.80. As the applicant belongs to Welder category and not to the Fitter category, therefore, he is not entitled to get any benefit of Fitter category and this OA being devoid of any merit, liable to be dismissed.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The applicant has challenged the order dated 27.9.95 (Ann.A/1) passed on the representation filed by him. This order makes it very clear that the applicant was working on regular basis on the post of Welder Grade-III w.e.f. 23.5.80 and he was never appointed on the post of Fitter Grade-III. It has also been made clear in this order that the applicant can be considered for promotion after he clears the trade test of Welder Grade-II but he has refused to take even a note of this fact. No document to this effect was filed by the applicant, by which it could be said that after passing the trade test on 21.7.80 the applicant had worked on the post of Fitter and the department was taking the work of Welder from the applicant. But on perusal of the documents filed by the respondent department, it appears that the applicant was working on the post of Welder. His pay was fixed accordingly and he cannot be said to be in the category of Fitter.

6. Admittedly, the applicant has claimed the benefit of

promotion of Fitter with effect from July, 1980, whereas this OA is filed in the year 1996, after getting the order of rejection of his representation but mere filing of representation does not extend the period of limitation.

7. In yashbir Singh v. Union of India & Ors, AIR 1988 SC 662, it has been held by Hon'ble the Supreme Court that anyone who may feel aggrieved with an administrative order or decision affecting his right should act with due diligence and promptitude and not sleep over the matter. Raking of old matters after a long time is like to result in administrative complications and difficulties and it would create insecurity and instability in the service which would affect its efficiency. In Ehoop Singh v. Union of India & Ors, AIR 1992 SC 1414, it was held that inordinate delay or latches itself a ground to refuse relief irrespective of the merit of the claim. In Union of India v. Harnam Singh, 1993 SCC (L&S) 375, their Lordship of Hon'ble the Supreme Court held 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 Ratan Chandra Sammanta & Ors. v. Union of India & Ors., JT 1993 (3) SC 418, Hon'ble the Apex Court held that a person who sleeps over his grievances looses his right as well as remedy. In Administrator of Union Territory of Daman And Diu v. E.D. Valand, 1996 (1) SCC (L&S) 205, Hon'ble the Supreme Court held that the Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way. In Famesh Chand Sharma etc v. Udhamp Singh Kamal & Ors., 2000 (1) ATJ 178, the applicant challenged the order of rejection of promotion dated 2.7.91 on 2.6.94 by way of OA. Tribunal allowed the relief but Hon'ble the Supreme Court held that OA was time barred before the Tribunal and the Tribunal was not right in overlooking the statutory provisions as contained u/s 21(1)(b) of Administrative Tribunals Act.

[Signature]

8. On the basis of above legal position and facts and circumstances of this case, we are of the considered opinion that the OA filed by the applicant is hopelessly barred by limitation and the applicant is not entitled to any relief sought for on this account alone.

9. If we consider the claim of the applicant on merits, even then he is not entitled to any relief.

10. On the basis of above discussion, we are of the considered opinion that the applicant has no case for interference by this Tribunal. However, if the applicant qualifies the trade test, as provided under rules, for promotion to the post of Welder Grade-II, this order will not come in the way for considering the case of the applicant for promotion on the post of Welder Grade-II. No order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)