

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR.

Date of Decision : 08.12.2003.

O. A. No. 489/1999.

with

M.A. Nos. 90/2003 & 360/2003.

Pratap Singh son of Late Shri Moti Ram, aged about 60 years, resident of Street No.4, Adarsh Colony, Chopra Farm, Kota Juction, Kota.

.. Applicant.

v e r s u s

1. The Union of India through General Manager, Central Western Railways, Jabalpur. Jabalpur.
2. The Divisional Railway Manager, Central Western Railway, Kota.
3. Sr. Divisional Personnel Officer, Central Western Railway, Kota.

... Respondents.

Mr. P. K. Asthana, counsel for the applicant.

Mr. T. P. Sharma counsel for the respondents.

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Hon'ble Mr. J. K. Kaushik, Judicial Member.

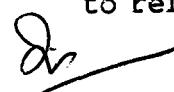
Hon'ble Mr. A. K. Bhandari, Administrative Member.

: O R D E R:
(per Hon'ble Mr. J. K. Kaushik)

Shri Pratap Singh has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, with the following prayers :-

1) by appropriate direction call for entire record pertaining to the case.

ii) by appropriate direction the respondents may be directed to pay balance of salary for the suspension period w.e.f. 14.11.1980 to 19.07.1981 in terms of Annex. 10 and all other due arising due to reinstatement.



iii) by appropriate order the respondents may be directed to consider the case of the applicant in the scale of Rs.1600-2060 (RP) w.e.f. 1992 and as C.T.I. in the pay scale of Rs.2000-3200 (RP) from the year 1995 from the date persons junior to him Shri Heera Lal has been granted promotion in the grade.

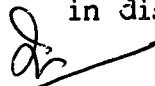
iv) by appropriate order respondents may be directed to grant appropriate fixation in related pay scale and pay arrears alongwith interest at the rate of 18 percent annum, from the date benefit accrues in favour of the applicant.

2. We have heard the learned counsel for the parties at length and have very carefully perused the records of this case.

3. The undisputed facts of this case are that the applicant was faced with certain chargesheets for major penalty while working on the post of T.T.E. On two occasions, he was imposed the penalty but subsequently in one case by this Court and in another case in the departmental proceedings the applicant was exonerated. By an order dated 18.12.1996 (Annexure A-7), the applicant was promoted from the post of Head T.T.E. to the post of T.T.I. but this promotion has been said to be only on ad hoc and he continued to work on this post without further consideration of his promotion. The applicant has retired on 31.01.1997.

4. The Original Application has been filed on diverse grounds indicated in the OA.

5. A detailed reply has been filed and the facts are not generally in dispute. A short rejoinder has also been filed on behalf of the

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applicant.

6. At the very outset, it was brought to our notice by the learned counsel for the respondents that the OA is hit by the law of limitation inasmuch as the applicant was promoted after his exoneration vide order dated 18.12.1996 (Annexure A-7) and as per Section 21 of the Administrative Tribunals Act, 1985, the limitation is only one year after the final orders. But in the instant case, the OA has been filed on 07.10.1999. Thus there is an abnormal delay in filing of the OA and the applicant has not chosen to file any Miscellaneous Application for condonation of delay and until and unless the delay is condoned the Tribunal is not having jurisdiction to entertain the case on merits. On the other hand, learned counsel for the applicant has strived hard to submit that there was ample justification for approaching this court inasmuch as the applicant has been making number of representations but the respondents did not pay any heed to the request of the applicant and the matter has remained pending consideration with them. He has submitted that the right for consideration of promotion is a fundamental right and his fundamental right as envisaged under Article 16 of the Constitution of India has been infringed. Therefore, he cannot be deprived of his promotion and for the same, the law of limitation would not be attracted for grant of the relief which have been claimed in this OA. He has also submitted that the respondents in their reply have not refuted or objected that the application is not within limitation despite the fact that the applicant had specifically made an averment in this OA that the application is within limitation, therefore, it would not be appropriate for this Tribunal to take cognizance or adjudicate upon such objection.

7. We have considered the aforesaid submissions raised on behalf of both the parties. The law on this point is well settled by the

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Hon'ble Supreme Court in the case of S. S. Rathore vs. Union of India & Ors. reported in AIR 1990 SC 10, wherein their Lordship sitting in a Constitution Bench have held that it is only the limitation which can be allowed if the representation is filed under the statutes that too only by six month in case such appeal/representation is filed. The total time can go upto one and a half year only but the present case is filed much beyond that. The repeated representations would not extend the limitation. Further the Hon'ble Supreme Court in the case of Ramesh Chand vs. Uddham Singh reported in 2000 (1) ATJ SC 178 has held that until and unless there is an application for condonation of delay explaining the delay and the delay is condoned, the Tribunal would decide or adjudicate the case on merits. That was a case regarding promotion and the Tribunal without adjudicating upon and deciding the point of limitation allowed the benefit of promotion. The Hon'ble Supreme Court reversed the order holding that the Tribunal will not proceed in any matter on merit until and unless the delay has been condoned.

8. We would like to observe that Section 21 of the Administrative Tribunals Act, 1985 is a specific provision which has been deliberately made by the Parliament in order to expedite the disposal of the cases relating to the service matter of the employees and the Tribunal does not have power like that of the powers of any other Court in regard to proceeding with the matters by ignoring the limitation. Once there is a specific statutes we are bound to follow it and this is what is the proposition of law which has been settled by the Supreme Court by its Constitution Bench by which we are bound (in S. S. Rathore's case (supra)).

9. In this view of the matter, since there is no application for condonation of delay and admittedly there has been delay in filing of the OA, the aforesaid ratio squarely covers on all force the



controversy involved in this case and OA cannot be entertained on merits. Hence there will be no necessity to go on the merits of this case.

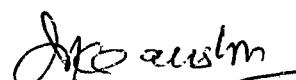
10. The result is rather unfortunate but we have no option except to dismiss this OA and we do so accordingly but without any order as to costs.

11. In view of the above discussion/findings, MA NO.90/2003 & 360/2003 filed by the applicant for taking certain documents on record do not survives. The same stand dismissed accordingly.



(A. K. BHANDARI)

MEMBER (A)



(J. K. KAUSHIK)

MEMBER (J)