

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

May briefly per
M/s. Jw
22/10/03

O.A. No. 261/2000
T.A. No.

199

DATE OF DECISION _____

Nanak Chand

Petitioner

Mr. S.K.Jain

Advocate for the Petitioner (s)

Versus

Union of India & Anr.

Respondent

Mr. S.S.Hasan

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. Justice G.L.Gupta, Vice Chairman

The Hon'ble Mr. A.P.Nagrath, Adm.Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(A.P.Nagrath)
Member (A)

(G.L.Gupta)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 22/11/2003

OA 261/2000

Nanak Chand, Junior Shop Supdt./Section Engineer, Milwright, Ajmer Division, DRM Office, Ajmer.

... Applicant

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Chief Works Manager (E), Loco Workshop, W/Rly, Ajmer Division, Ajmer.

... Respondents

CORAM:

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

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

For the Applicant ... Mr.S.K.Jain
For the Respondents ... Mr.S.S.Hasan

O R D E R

PER MR.A.P.NAGRATH

A notification dated 15.4.97 (Ann.A/9) was issued indicating names of 14 persons who were considered eligible for participating in selection to the post of Section Engineer in the pay scale of Rs.2000-3200 (now revised to Rs.6500-10500). It was indicated inter-alia that the names of eligible candidates have been decided on the basis of base grade seniority. Subsequently, vide letter dated 14.7.97 (Ann.A/1) the seniority of eligible candidates was shown differently from what was earlier stated in the letter dated 15.4.97. The applicant, Nanak Chand, feeling aggrieved with this change, made vide impugned order dated 14.7.97, has filed this application and has made a prayer that the respondents be directed to promote him to the post of Chargeman'A' from the date his juniors have been promoted by reckoning his seniority as Chargeman'B' w.e.f. 15.2.91. Further, his prayer is that he be considered for the post of Section Engineer grade Rs.6500-10500 for promotion on regular basis w.e.f. 24.1.98, when his juniors were so promoted.

2. At the time of filing of this application, the applicant was holding the post of Section Engineer in the pay scale of Rs.6500-10500 on ad hoc basis. He was not empanelled in the selection for regular promotion, for which the viva-voce was held on 29.11.97. By order dated 16.6.2000, the Tribunal had directed the respondents not to revert the applicant from the post of Section Engineer till the next date. This interim order has continued to operate till date.

3. We have heard the learned counsel for the parties and perused the records of the case carefully.

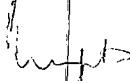
4. In their reply, the respondents have raised a preliminary objection about maintainability of this OA on the ground of limitation. It has been stated that the applicant has challenged the order dated 14.7.97 (Ann.A/1) and the letter dated 30.11.98 (Ann.A/2), by which his representation had been rejected. Since this OA has been filed in the year 2000, the same is hit by provisions of Section-21 of the Administrative Tribunals Act, 1985 (for short, the Act, 1985). Respondents' plea is that the applicant has not even filed an application for condonation of delay and hence this OA deserves to be dismissed on this ground alone.

5. We find considerable force in this plea of the respondents. The applicant has basically challenged the orders dated 14.7.97 and 30.11.98. Reckoned from these dates, this OA presented on 16.6.2000 is badly delayed and attracts the provisions of Section 21 of the Act, 1985. The applicant has not even considered it necessary to file any application for condonation of delay. In fact, it has been declared by the applicant that this OA has been filed within the limitation period prescribed by Section-21 of the Act, 1985. This assertion has no substance. The law on the matter is very clear as held by Hon'ble the Supreme Court in the case of Ramesh Chand Sharma v. Udhamp Singh Kamal & Ors., 2000 SCC (L&S) 53, that if an application is time barred and if no application is filed praying for condonation of delay u/s 21(3) of the Act, 1985, the Tribunal should not decide the matter on merits. In the face of this legal position, no case is made out for our scrutiny on merits.

6. Having said that, even on merits we find absolutely no ground in favour of the applicant. His plea is that his seniority vis-a-vis others should have been decided on the basis of his date of appointment as Chargeman'B'. He was appointed on 15.2.91, whereas S/Shri Kasturi Lal, Govind Ram and Rajendra Kumar were regularised as Chargeman'B' only in December, 1991 and thus he was senior to them as Chargeman'B'. This position is not disputed by the respondents but they have stated that the seniority upto the level of Chargeman'A', which is next higher grade of Chargeman'B', was decentralised and Chargeman'B' found advancement to Chargeman'A' in their respective seniority unit. Promotion to the post of Section Engineer in the scale of Rs.6500-10500 is controlled centrally by the headquarter office. For this purpose, the feeder grade is Chargeman'A' and eligibility is decided on the basis of inter-se seniority of

Chargeman'A' of different units. We find from the impugned order (Ann.A/1) itself that the applicant was promoted as Chargeman'A' on 12.8.96, whereas others, whom the applicant claims to be his juniors as Chargeman'B', were promoted as Chargeman'A' in the year 1994. The applicant never agitated against their promotion and even could not have as they belong to different seniority units. Since their promotion to the post of Chargeman'A' remained undisputed, the obvious consequence of this is that in the feeder grade of Chargeman'A' they would rank senior to the applicant. Thus, there is no infirmity in the impugned order indicating the position of the applicant vis-a-vis others. There is absolutely no merit in the contention of the applicant that he should be ranked senior for determining eligibility for promotion to the post of Section Engineer.

7. Consequently, this OA is dismissed both on the ground of limitation as also on merits. The interim order stands vacated forthwith. However, there shall be no order as to costs.


(A.P.NAGRATH)
MEMBER (A)


(G.L.GUPTA)
VICE CHAIRMAN