

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 10.10.2001

1. O.A. No. 447/2001
with
2. M.A. No. 323/2001

W.G. Sinclair son of Shri E.M. Sinclair aged about 65 years resident of near New Church Railway Colony, Kota Junction (retired Driver), Kota.

... Applicant.

versus

1. The Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. The Divisional Railway Manager, Western Railway, Kota Division, District Kota.
3. The Chief Personnel Officer, Western Railway, Kota.

... Respondents.

Mr. Pradeep Kumar Asthana, Counsel for the applicant.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed by Shri W.G. Sinclair under Section 19 of the Administrative Tribunals Act, 1985, for quashing the order dated 27.03.96 (Annexure A/4). The applicant also prays for a direction to the respondents to fix his pension and retiral benefits, taking his services as Senior Shunter / Goods Train Driver for the period from 29.09.94 to till date of his retirement. The applicant has not give

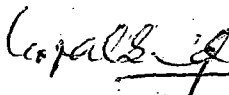
clear date as to when he retired from service. However, he contended that on the basis of the charge-sheet dated 19.04.94, the applicant was imposed with a punishment of reversion from the post of Goods Train Driver to the rank of Assistant Driver. But notwithstanding such reversion order, the authority has taken his services as Senior Shunter/ Goods Train Driver. Therefore, there should be a direction to the respondents to fix his pay in the pay scale of Senior Shunter / Goods Train Driver at Rs. 1350-2200, and his pensionary benefits should be determined accordingly. The applicant further contended that his earlier representation was rejected vide Annexure A/4 dated 27.03.96 illegally, and the same is required to be quashed. He has also filed an application in M.A. No. 323/2001 for condonation of delay.


2. Both from the pleadings as well as the contention raised by the counsel for the applicant, it is admitted that the applicant was imposed with a punishment of reversion on the basis of charge-sheet dated 19.04.94, and accordingly, he was reverted from the post of Senior Shunter / Goods Train Driver to the post of Assistant Driver. But his further contention is that notwithstanding such reversion, his services as Goods Train Driver has been taken as per the letter dated 12.01.96 (Annexure A/6) issued by C.T.F.O. (R), Kota. But we find that considering his representation vide order dated 27.03.96 (Annexure A/4), the Divisional Railway Manager has rejected his representation, holding that the applicant was, in fact, reverted to the lower grade with effect from 29.09.94. Therefore, his representation has no merit. If the applicant was aggrieved by this order, he should have approached this Tribunal immediately within time. The applicant contended that he made some representation to the department, including the one dated 19.04.2000. According to the law declared by Hon'ble the Supreme Court reported in 1999 SCC (L&S) 251 (Union of India and Another vs. S.S. Kothiyal and Ors.), filing such repeated representations do not save the

limitation. Under Section 21 of the Administrative Tribunals Act, 1985, one year is prescribed for approaching this Tribunal from the date of the impugned order. In the instant case, from the date of impugned order dated 27.03.96, one year period is already over as on 27.03.97. Therefore, this application filed on 26.09.2001, is hopelessly barred by time. The applicant no doubt, has filed M.A. No. 323/2001 for condonation of delay in filing the present O.A. But from reading of the M.A., we find that the applicant has simply stated that in the interest of justice and equity, the delay may be condoned. But he has not given any cause, much less than the sufficient cause for condoning the delay of about 4 years. In these circumstances, we find that this application is liable to be dismissed on the ground of limitation only.

3. Moreover, the case of the applicant that after his reversion vide order dated 29.09.94 to the post of Assistant Driver from the post of Goods Train Driver, he was still working as Goods Train Driver, cannot be accepted. Precisely, for this reason only, his representation was rejected by passing the impugned order dated 27.03.96. Thus, even on merits also, absolutely the applicant has no case. He has not produce any order showing that notwithstanding his reversion, he was directed to be retained as Goods Train Driver for about 15 months before his retirement. The certificate annexed to have been issued by some person vide Annexure A/6, is not believable at this point of time. Hence, we have no option but to pass the order as under:-

" Both the O.A. No. 447/2001 and the M.A. No. 323/2001 are hereby dismissed at the stage of admission.


(GOPAL SINGH)
Adm. Member


(JUSTICE B.S. RAIKOTI)
Vice Chairman

✓
CVR.