

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

CA 482/2002

DATE OF ORDER: 12.03.2004

Chhitar Singh son of Shri Sobran Singh aged about 40 years, resident of Village and Post Dadotra, District Agra. At present employed as Gangman under P.W.I Sikar, North Western Railway, Jaipur Division.

.... Applicant

VERSUS

1. Union of India through General Manager, North Western Zone, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jaipur Division, Jaipur.
3. Sr. Divisional Mechanical Engineer, North Western Railway, Jaipur Division, Jaipur.

.... Respondents

Mr. C.B. Sharma, Counsel for the applicant.

Mr. Anupam Agarwal, Counsel for the respondents.

CORAM:

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

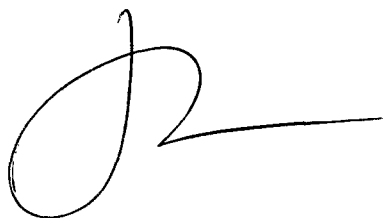
Hon'ble Mr. Bharat Bhushan, Member (Judicial)

ORDER

PER HON'BLE MR. BHARAT BHUSHAN

The applicant has filed the present CA seeking the following reliefs:-

- "(i) That the entire record relating to the case be called for and after perusing the same respondents may be directed to release pay and allowances for the period 1.12.1983 to 31.5.1990 and 1.9.1994 to 31.12.1995 by quashing letter dated 21.6.2002 (Annexure A/1)."

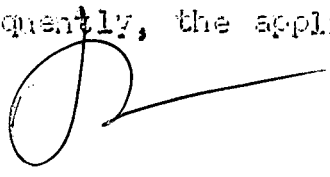


- (ii) That the respondents be further directed to regularized services of the applicant from the date juniors so regularised and to assign correct seniority taking into consideration of his appointments since 15.5.1980 with all consequential benefits.
- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

2. Briefly stated, the case of the applicant is that he was initially appointed to the post of Gangman as substitute by the respondents on 15.5.1980 was granted the temporary status w.e.f. 29.10.1983. It is his further case that in the year 1987, due to his sickness, he could not perform his duties and when he reported for duty on 27.11.1989, he was not allowed to resume his duties and then he was left with no alternate but to approach the Tribunal by filing OA No. 856/92 for seeking direction to take him on duty and award him all pay & allowances for the intervening period. The relief requested by the applicant was granted to him by the Tribunal vide order dated 23.10.1994. It would be useful to reproduce ~~here~~ the concluding para of the Tribunal's judgement dated 23.10.1994 in the said OA, the copy of which is placed at Annexure A/2.

".....If the applicant is aggrieved by any order passed by the respondents, refusing him pay and allowances for the period of absence from duty from 1.12.1989 onwards, the applicant shall be at liberty to file a fresh application. The respondents shall pass appropriate order regarding payment of pay and allowances within a period of four months from the date of submission of the affidavit by the applicant."

3. The perusal of the aforesaid reveals that in no uncertain terms a liberty was given to the applicant to file a fresh application and the respondents had to decide the same within a period of four months. The applicant, however, preferred a Contempt Petition No. 129/1995 and the said Contempt Petition was, however, disposed of on 19.4.1996. And consequently the applicant was taken back on duty and was paid a sum of Rs. 70,925/- towards the payment of pay & allowances. Subsequently, the applicant filed another OA No. 321/199

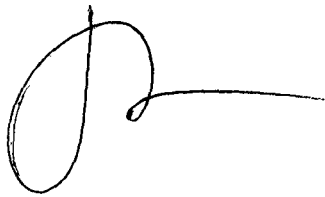


whereby directions were sought for considering him for absorption in Electrical/Carriage & Wagon Department and payment of his legitimate dues and allow all consequential benefits. For that purpose, he was again given an opportunity to make a representation to the respondents.

4. The Respondents have however, contested the claim of the applicant. Their contention is that the claim of the applicant for making payment for the period from 1.12.1989 to 31.05.1990 and from 01.09.1994 to 21.12.1995 was clearly barred by limitation. Regarding the second contention that the persons junior to the applicant were regularised in the year 1989 and 1994 also, the respondents plea is, that, the CA is hopelessly barred by limitation as the applicant has approached the Court for such relief at such belated stage. On merits too, it is contended that the applicant remained on unauthorised absence from duty since 9.5.1987 till he joined the duties pursuant to the orders of the Tribunal dated 26.10.1994 and for that matter too, charge sheet has ~~be~~ already been served upon the applicant. Their further contention is that the payment for the entire period for which the applicant had worked had been made to him and it was pursuant to the said payment only that the Contempt Proceedings initiated at the instance of the applicant in CP No. 129/95 were dropped.

5. We have considered the rival contentions of the parties and perused the record.

6. In our opinion, in the absence of any legal right to the post, the claim of the applicant for regularisation needs no consideration. He has not been able to substantiate his claim as to how and under what circumstances, he is entitled to be regular to the post. He has also failed to show that in what manner any person junior to him have been regularised. As regards the aspect

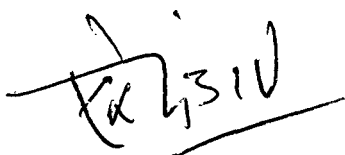


of the payment of dues is concerned, though the applicant has approached the Tribunal time and again, yet he has not come out with the facts and figures as to how much amount and in what manner is due to him and he has not furnished any details thereof so far. He has not shown as to whether any amount, if any, over and above the sum of Rs.70,925/- received by him pursuant to the order passed in CP No. 129/1995 was due to him.

7. The result of our aforesaid discussion is that there is no merit in this OA and the same is hereby dismissed. No order as to costs.


(EHARAT ESHSHAN)
MEMBER (J)

AHQ


(A.K. BHANDARI)
MEMBER (A)