

Q

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 411 of 2006

Bilaspur, this the 29th day of June, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

D.M. Laxman Rao, S/o. Shri D.
Ranga Rao, aged about 51 years,
Ex-Assistant Guard, SEC Rly./Bilaspur,
Resident at : Village & Post-Nipania,
District : Raipur (CG).

... Applicant

(By Advocate - Shri B.P. Rao)

y e r s u s

1. Union of India,
through : the General Manager,
South Eastern Central Railway,
G.M. Office, Bilaspur,
Dist : Bilaspur (CG).
2. The Divisional Railway Manager (P),
South East Central Railway,
Bilaspur Division, Bilaspur-
495001, Tehsil & District :
Bilaspur (CG).
3. The Sr. Divisional Personnel Officer,
South East Central Railway,
Bilaspur Division, Bilaspur-
495001, Tehsil & District :
Bilaspur (CG).
4. The Divisional Operations Manager
(CIC), South East Central Railway,
Bilaspur Division, Bilaspur -
495001, Tehsil & District;
Bilaspur (CG).

... Respondents

(By Advocate - Shri M.N. Banerjee, Standing counsel for the
Railways)

O R D E R (Oral)

By A.K. Gaur, Judicial Member -

By the aforesaid Original Application the applicant ha
challenged the order dated 20.6.1997 by which ^{he was} ~~his services~~
^{from railway service} ~~was~~ dismissed by the respondents ^{and in} as well as the subsequent
orders, which confirmed this penalty. ⁱⁿ

2. The applicant was initially appointed as Substitute
Porter under Chief Yard Master at Shahdol on 26.3.1976. ^{Subsequently} ~~the~~
and
services of the applicant were regularised ^{on} passing written
test/viva-voce ⁱⁿ ~~for~~ he was promoted as Pointsman and
then to Assistant Guard. On 13.3.1991 the applicant was

4



allowed to appear in the written test for the post of Goods Guard ^{having been given} as a Scheduled Tribe candidate and he qualified the written test. It is contended by the applicant that he belongs to scheduled tribe community but he never availed or claimed any benefit being a member of scheduled tribe community. The Senior Divisional Personnel Officer, Bilaspur on 10.1.92 asked the applicant to produce the caste certificate from the competent authority of Madhya Pradesh or Andhra Pradesh in support of his being a member of the scheduled tribe community. On 16.1.1992 the applicant obtained a scheduled tribe certificate from Sub Divisional Magistrate, Bhatapara and submitted it ~~to~~ ^{to} the respondents on 22.1.1992. It is alleged by the applicant that in the meantime without waiting for the desired certificate, Sr. DPO, Bilaspur, ~~by~~ ^{by} omitting applicant's name, issued provisional panel for the post of Goods Guard. It is also alleged on behalf of the applicant that after receipt of the scheduled tribe certificate the respondents sought clarifications from SDM, Bhatapara regarding propriety and basis of issuance of scheduled tribe certificate to the applicant. It was clarified by him. The applicant was not permitted to join duties for a long time without disclosing any reasons and subsequently it was revealed that vide order dated 19.5.1994 the applicant was reverted to ~~L~~^ever Man-II but as he was not relieved, he could not join ^{the post of} ~~L~~^ever Man-II at GAD.



2.1 On 20.6.1997 the applicant came to know for the first time that he was dismissed from Railway service ~~on the~~ ^{on the} ~~allegation~~ ^{Ground} that he committed grave misconduct as he fraudulently claimed his caste as Kondakapu, Scheduled tribe, although he actually falls under unreserved category and that he submitted an irregular caste certificate issued by SDM/ Bhatapara and took undue benefits of Scheduled Tribe. The applicant did not appear in the enquiry and the enquiry proceeded exparte.

3

3. The learned counsel for the applicant vehemently argued that the applicant ~~has~~ submitted several appeals/representations one after another but the same were not considered by the competent authority. Being aggrieved by the inaction of the respondents in not deciding the appeal/representation of the applicant, he has approached this Tribunal by way of filing this Original Application.

4. Shri M.N. Banerjee, learned counsel for the respondents appeared in this case and opposed admission of the case and raised preliminary objection that the case is highly time barred and no reasonable and plausible explanation has been averred by the applicant in support of the delay caused in the matter. The learned counsel for the respondents has relied upon the judgment of the Hon'ble Supreme Court in the case of R.C. Sharma Vs. Udhham Singh Kamal, 2000 SCC (L&S) 53 in support of his argument.

5. Considering the aforesaid arguments and the judgment cited by the learned counsel for the respondents, we dismiss this Original Application as barred by limitation.

(A.K. Gaur)
Judicial Member

(Dr. G.C. Srivastava)
Vice Chairman



"SA" पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....
पवित्रिति वा वे/ता-
(1) सही, उपा.....जबलपुर
(2) सही, उपा.....के काउंसल
(3) सही, उपा.....के काउंसल
(4) सही, उपा.....के काउंसल
सूचना एवं आचार्यक काउंसल के
उप सचिव

B.P. Rao Adv Durg
M.N. Banerjee
Adv Durg

ST/106