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**Central Administrative Tribunal
Jabalpur Bench**

OA No.104/05

Jabalpur, this the 29th day of November 2006.

CORAM

Hon'ble Dr.G.C.Srivastava, Vice Chairman

Hon'ble Mr.A.K.Gaur, Judicial Member

Laloo Ram Khare

Son of late Shri Gaya Prasad Khare

Welder Carriage and Wagon Depot

C.R.New Katni Junction

District Katni (M.P.)

Applicant

(By advocate Shri A.P.Shrivastava)

Versus

1. Union of India
Through Ministry of Railway
New Delhi.

2. The Divisional Railway Manager
Jabalpur (M.P.)

3. The Chief Personnel Officer
Central Railway
Jabalpur Division.

4. The Carriage Wagon Supdt.
Carriage Wagon Depot
New Katni (M.P.)

5. Shri Shankerlal
Son of Pooranlal
Carriage and Wagon Depot
New Katni.

Respondents

(By advocate Shri M.N.Banerjee)

ORDER

By A.K.Gaur, Judicial Member

The applicant is a Welder under the respondents. His grievance is that he has been superseded in the matter of promotion to the grade of Welder-I. According to the applicant, he is getting pay scale of Rs.4000-6000/- whereas his juniors including respondent No.5 are

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getting pay scale of Rs.4500-7000/-, despite the fact that his name appears above respondent No.5 in the gradation list (A-1). Though the applicant made several representations in this regard, nothing has come out of it. Hence he has filed this original application for a direction to the respondents to promote him to the post of Welder-I with consequential benefits.

2. The respondents have denied the allegation of the applicant, stating that the applicant has been given promotion from time to time as Welder III & II and now as Welder I. They have further stated that respondent No.5 is senior to the applicant, as per the chart enclosed along with the reply. Respondent No.5 became senior as he passed the trade test in 1974 whereas the applicant passed the trade test in 1979 and as such the applicant was given promotion from 1981. As regards the wrong fixation of pay, it has been contended by the respondents that no details of such wrong fixation or arrears of pay has been given by the applicant. The case of OA No.365/98 cited by the applicant in his original application is different. In that OA filed by respondent No.5, he challenged his illegal reversion whereas in the present OA, the applicant has disputed his seniority position and claimed promotion. Moreover, according to the respondents, the present Original Application is not maintainable as it is hopelessly barred by limitation.

3. Respondent No.5 has also filed a reply statement countering the averments of the applicant. According to respondent No.5, he was appointed as Khalasi in 1972 and on being qualified in the trade test, was appointed as Welder-III in 1978, whereas the applicant was appointed as Welder-III on promotion in the year 1981. Subsequent promotion as Welder Grade I was made w.e.f. 12.1.95 and 17.1.2005 in respect of respondent No.5 and the applicant respectively. Hence, the applicant, according to the respondent No.5, is junior to him.

4. We have heard the learned counsel for both parties and perused the records.


5. We find that the Original Application is hopelessly barred by limitation. The Tribunal cannot look into the merit of the case without

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condoning the delay in view of the decision of the Apex Court in Commandant, TSP and others vs. Easwaramoorthy – 1999 SCC L&S 643 – “Limitation – Non consideration of delay – Consideration of matter on merits, nonetheless, held, not justified”. In E.Paramasivan and Ors. vs. Union of India and others - JT 2002 (5) SC 367 – the Supreme Court held that “plea that cause of action continuing - judgements of C.A.T. relied upon pertaining to serving officers, held that Tribunal was right in dismissing application on ground of limitation”. We have also gone through the latest decision of the Supreme Court in Karnataka Power Corporation Ltd. vs. K.Thangappan and another – 2006 SCC L&S 791 – “mere making of representations to the authority concerned cannot justify a belated approach”. Apart from the aforesaid decisions, the Supreme Court has held in A.J.Fernandis vs. D.R.M, South Central Railway and others – 2001 SCC L&S 217 – “delay and laches - application challenging promotion of another employee after a period of four long years, held, liable to be dismissed”. We may also observe that seniority list should not be reopened after a lapse of several years, as has as been held by the Supreme Court in 1974 SCC 59; AIR 1986 SC 286; JT 2001 (10) SC 38, 1997 ALJ 55 .

7. In view of aforesaid discussion and findings, we find no merit in the OA. Accordingly the OA is dismissed. No costs.


(A.K. Gaur)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

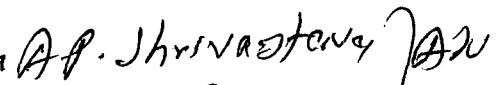
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पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....

वित्तियोगिता कायदेद्वारा:-

- (1) सचिव, न्यायिक प्रशासन, जबलपुर
- (2) न्यायिक प्रशासन, जबलपुर के कार्यालय
- (3) न्यायिक प्रशासन, जबलपुर के कार्यालय
- (4) न्यायिक प्रशासन, जबलपुर के कार्यालय


A.P. Shrivastava
M. K. Benarjee
Sh. K. Datta

5/12/06
रजिस्ट्रार