

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.

CIRCUIT BENCH AT GWALIOR

Original Application No. 572 of 1999

Gwalior, this the 26<sup>th</sup> day of February, 2004

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member

Sri N.R. Pawar, Son of Late  
Sri Madhav Rao Pawar, C/o.  
Sri Pramod Nasikar, Darji Oli, Laskar.  
Gwalior, (M.P.).

... Applicant

(By Advocate - Shri S. C. Sharma)

V e r s u s

1. Union of India, through the General Manager, Central Railway, Mumbai CST.
2. The Divisional Railway Manager, (Personnel) Central Railway, Jhansi.

... Respondents

(By Advocate - Shri H.D. Gupta)

O R D E R

By G. Shanthappa, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

- "8.i. to grant promotion to the applicant as per his seniority position earlier to his juniors and fix up pay and make payments of arrears thereof.
- 8.ii. to comply the orders of APO(M) JHS on office note (Ann A 5) for grant of proper seniority and grant of benefits."
2. The brief facts of the case are that the applicant had entered in the service on 1.5.1955 as a YKC in Group-D service under the Repair & Maintenance Department of the respondents. He was promoted as IInd Fireman on 17.7.1961. Subsequently he was promoted as Fireman 'B' on 16.7.1972, Driver 'C' on 16.7.1980 and Driver 'B' on 17.7.1985. The



applicant is comparing his services with one Shri Belwalkar. Shri Belwalkar had entered in the service on 1.5.1958 in Group-D. He was promoted as IInd Fireman on 1.4.1961, Fireman 'B' on 1.4.1964, Driver 'C' on 11.3.1980 and Driver 'B' on 1.4.1984. The grievance of the applicant is that there is a difference of <sup>pay</sup> from Rs. 1640/- occurred against Rs. 1800/- granted to so called junior Belwalkar from the year 1984 onwards. For that injustice the applicant has submitted his representation on 17.11.1989. Due to the disparity in the pay of the applicant and Shri Belwalkar, the applicant has approached this Tribunal for grant of reliefs.

3. Alongwith this Original Application the applicant has filed a Misc. Application dated 9.12.1999 for condonation of delay in filing the Original Application. In the Misc. Application the reasons assigned is that the applicant had asked the respondent No. 2 for personal interview in the year 1989 on four to five occasions. Ultimately he submitted the representation on 6.4.1999. Since the applicant could not get the reply from the respondents, he has filed this Original Application. Hence there is no delay in filing the O.A. He has also stated that if there is any delay the same may be condoned.

4. The respondents have filed their reply denying the averments made in the OA. The main ground that they have taken is that the application is barred by limitation because the applicant is claiming the seniority in the cadre of IInd Fireman over Shri Belwalkar from 1961. This Tribunal has no jurisdiction to grant any relief on the belated application. If any cause of action <sup>is</sup> arising beyond 1982, the same cannot be entertained by this Tribunal at this stage. Hence only on this ground the OA is liable to be dismissed as barred by limitation.



4.1. Even on merits of the case also the applicant has not proved his case on several grounds. The post of IIInd Fireman is a selection post and it was filled up by calling options, willingness from YKC, Ladderman and Coalman. "A panel was formed and as a result of positive act<sup>of</sup> of selection/applicant by a select committee, selected person was empanelled for promotion as IIInd Fireman". One Shri N.K. Sharma was promoted as IIInd Fireman on 18.3.1961, Shri Belwalkar on 01.4.1961 and the applicant on 17.7.1961, as the vacancies occurred. All these promotions were in the running cadre, Transport and Power Department. Since the selection was made under the selection process the applicant was selected subsequent to Shri Belwalkar and therefore he cannot ask for seniority over and above Shri Belwalkar. Hence the contention of the applicant is not permissible under the rules. The applicant is also not entitled under the provisions laid down in Railway Establishment Manual Vol.-I Page 67 of Para 302, i.e. from the date of entry in a cadre.

5. We have heard the advocate for the applicant and the advocate for the respondents and perused the pleadings and documents.

6. The admitted facts are that the applicant is claiming the seniority over and above one Shri Belwalkar who entered the service as Group-D on 1.5.1958. While entering the service Shri Belwalkar was junior to the applicant. In the selection process for the post of IIInd Fireman the applicant has become junior, since he got selected on 17.7.1961 and Shri Belwalkar on 1.4.1961. The applicant became junior due to this selection process. He has not challenged this selection process. The applicant is claiming seniority over and above Shri Belwalkar only on the ground that he entered the



service on 1.5.1955 and Shri Belwalkar entered on 1.5.1958. It is admitted that both of them falls in the same division date of but the selection was different. Now the applicant cannot ask for the seniority over and above Shri Belwalkar without challenging the selection process. Hence the case of the applicant cannot be considered for promotion over and above Shri Belwalkar. The another ground is delay in filing the OA. The applicant is asking seniority from 1.4.1961 and the reasons assigned in the MA are not tenable. The applicant has approached the respondents by submitting a representation in the year 1999. From 1961 to 1999 the delay has not been explained by the applicant. This Tribunal cannot entertain the belated applications because the cause of action has arisen in the year 1961. If any cause of action is arising beyond 1982, the same cannot be entertained by this Tribunal at this stage. Hence the application is filed beyond the period of limitation. Accordingly, the reasons assigned in the Misc. Application for condonation of delay cannot be considered and the same is rejected.

7. As discussed above, the Original Application has no merits and is barred by limitation. Therefore the Original Application is accordingly, dismissed. No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

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- "SA"  
(i) Sri S.C. Sharma, Adr.  
for Applicant  
(ii) Sri H.D. Ganatra, Adr.  
Counsel