

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH**

Jaipur, this the 13th October, 2008

ORIGINAL APPLICATION NO. 472/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Satish Kumar Jain son of Shri Sumer Chand Jain, aged about 40 years.
Working as Senior Clerk on ad hoc basis in the Office of Divisional Rail
Manager, North Western Railway, Jaipur. Resident of Shakti Nagar,
Gopalpura Bye Pass, Jaipur.

.....APPLICANT

(By Advocate: Mr. Nand Kishore)

VERSUS

Chairman, Railway Recruitment Board, Ajmer.

.....RESPONDENT

(By Advocate: Mr. C.B. Sharma Proxy Counsel to Mr. S.S. Hassan)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following
reliefs:-

- "(i) Direct the respondent i.e. Chairman Railway Recruitment Board, Ajmer to declare the result, merit of the applicant.
- (ii) Any other direction and orders which is deems proper in the facts and circumstances of the case may kindly be allowed to the applicant."

2. Briefly stated facts of the case so far as ^{irrelevant for the} decision of this case are that the respondents issued a notification dated 18.02.1998 for filling

up the posts of Sr. Clerk in the scale of Rs.1200-2040. The applicant being eligible also applied for the said post. The applicant qualified the written test, as such he was called for typing test vide letter dated 26.10.1998 (Annexure A/3). Vide Annexure A/4, the panel of successful candidates was declared in which the name of the applicant was not there. It may be stated that two of the applicants namely, Purushottam Yadav and Mohd. Saleem, who were similarly situated have filed OA No. 413/1998 before this Tribunal thereby relying upon the instructions issued by the Railway Board dated 03.02.1997, which stipulates that clerks can be promoted to Senior Clerk against LDC quota on provisional basis and concerned staff can be given two years to qualify the prescribed typing test and if they fail to qualify the typing test, they will be liable to be reverted. On the basis of these instructions, the OA of these two applicants was allowed. At this stage, it will be useful to quote the operative portion of the judgement, which thus reads as under:-

"The OA is allowed. The respondents are directed to consider the case of the applicants for promotion provisionally on the post of Senior Clerk on the basis of Limited Departmental Competitive Examination held pursuant to the Notification dated 11.8.1998 (Annexure A/3) without their passing the type-writing test provided, they are other eligible. Such appointment will be further subject to their passing the Type Test within a period of one year from the date of such appointment and the respondents are directed to give at least two chances during this one year to the applicants to pass the Type-writing test. Applicants would be liable to be reverted if they do not pass the typewriting test within one year from the date of provisional appointment. No costs."

3. In compliance of the aforesaid directions issued by this Tribunal, applicants along with other persons who were similarly situated were called for interview. Although applicants ^{in earlier OA} have been given appointment on provisional basis pursuant to the judgement rendered by this Tribunal in OA No. 413/1998, no such benefit was extended to other similarly situated persons. Thereafter the applicant remained silent. It

is only by this application dated 28.03.2006, he sought information under Section 11 of the Right to Information Act and vide impugned order dated 26.05.2006 (Annexure A/1), the applicant was informed that there is no such direction given by this Tribunal to declare the result, the result of the interview would not be declared. It was further stated that applicants of ^{The earlier} this OA were promoted as Sr. Clerk on ad hoc basis pursuant to the order passed in CP 38/2004, which were specifically applicable to the applicants only. Thus respondents show their inability to declare the result of any of the candidates. It is this order which is challenged before this Tribunal.

4. The respondents have filed reply. The respondents have taken objection regarding maintainability of the OA on the ground of limitation. According to the respondents, the present OA is barred by limitation as prescribed under Section 21 of the Administrative Act. It is further stated that applicant has filed this OA seeking direction against respondent i.e. Chairman, Railway Recruitment Board, Ajmer to declare the result and merit of the applicant in the Sr. Clerk Examination which has been held in the month of October, 1998. Thus the applicant has filed the present OA after a delay of more than eight years of the alleged examination. Therefore, the OA filed by the applicant is hopelessly time barred. No application for condonation of delay has been filed by the applicant. Therefore, the OA filed by the applicant deserves to be dismissed on the ground of limitation.

5. The applicant has filed rejoinder thereby reiterating the submission made in the OA.

6. We have heard the learned counsel for the parties and have perused the material placed on record. We are of the view that applicant has not made out any case for the grant of any relief. From the material placed on record and as can be seen from the operative portion of the judgement, as reproduced above, relief was granted by

this Tribunal qua the applicants therein. This being a judgement in persona cannot be made applicable to other persons similarly situated. It all happened in the year 2001. It was permissible for the applicant to file OA immediately thereafter claiming similar benefits, as was granted to the applicants in OA No. 413/1998 or in any case immediately thereafter when the applicants in OA No. 413/1998 were given provisional appointment in compliance of the order passed by this Tribunal in the aforesaid OA. Having not done so, the applicant cannot at this stage seek a direction from this Tribunal to declare the result of the applicant on the basis of Railway Board Circular dated 03.02.1997. Thus we are of the view that even if the applicant has got some case on merit, no benefit can be given to the applicant on account of his own act and conduct and we agree with the plea taken by the respondents that the present OA is hopelessly time barred. Further the applicant has also not moved any application for condonation of delay. The Apex court in the case of Ramesh Chand Sharma vs. Udham Singh Kamal & Others, 2000 SCC (L&S) 53 has categorically held that application which is time barred and no application for condonation of delay is made, such petition cannot be admitted and entertained.

7. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ