

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 16th December, 2008

ORIGINAL APPLICATION NO. 474/2008

CORAM:

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

Rukhsar Mohammed son of Shri Gulam Mohammed, aged about 56 years, resident of Bassi Berisal, District Chittorgarh. Presently posted as Senior Pointsman in the grade of 3050-4590 under the office of DRM, Western Central Railway, Kota at Bassi Berisal.

.....APPLICANT

(By Advocate: Mr. Vinod Goyal)

VERSUS

1. Union of India through the General Manager, West Central Railway, Jabalpur (M.P.)
2. The Divisional Railway Manager, West Central Railway, Kota.

.....RESPONDENTS

(By Advocate: -----)

ORDER (ORAL)

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

"(i) By appropriate order or direction, the respondents be directed to promote the applicant on the post of Senior Pointman w.e.f. 1981 when juniors were promoted with all consequential benefits including revision of pay & arrears with 18% interest.

(ii) Any other appropriate order or direction which this Hon'ble Tribunal may consider just and proper in the facts and circumstances of the case may also kindly be passed in favour of the humble applicant. Cost of this Original application may also kindly be awarded in favour of the applicant."

2. As can be seen from the prayer clause, the applicant is claiming appointment on the post of Senior Pointman since 1981. In para 3 of the OA, the applicant has stated that this application is within the period of limitation prescribed in Section 21 of the Central Administrative Tribunal's Act, 1985.

3. We have heard the learned counsel for the applicant. We are of the view that this application cannot be entertained being hopelessly time barred. In this case, the cause of action in favour of the applicant has arisen in the year 1981 when the so called junior persons were promoted as Senior Pointman. In terms of provisions contained under section 21 of the Administrative Tribunal's Act, such an application has to be filed within the period of one year from the date when the cause of action has arisen. Further cause of action in terms of Section 20 & 21 of the Act will arise in the case of a person when the order is passed, in case the person has filed a representation then from the date of decision of the representation and in case such representation is not decided within a period of six months thereafter. Admittedly, no such remedy has been availed by the applicant and the present OA has been filed after a lapse of 27 years. According to us, repeated representation will not give any cause in favour of the applicant.

4. Further there is another ground which debarred this Tribunal to entertain this petition. As can be seen from Sub Section 2 Clause (a) of Section 21 of the Administrative Tribunal's Act, an application cannot be admitted where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates. In this case, provisions of the Administrative Tribunal's Act has been made applicable w.e.f. 01.11.1985 as such, this Tribunal could have entertain the grievance in respect of the matter which has arisen on or after 01.11.1982. Section 21 (2)(a) of the Administrative Tribunal neither vest any power or authority to take cognizance of a grievance arising of an order made prior to

01.11.1982 nor vest any power to ~~condone~~ ^{condone it} delay in respect of order made before 3 years of the constitution of the Tribunal. Even on this ground also, the present OA cannot be entertained.

5. For the foregoing reasons, we are of the view that the present OA cannot be entertained at this belated stage. Accordingly, the same is dismissed with no order as to costs.

(B.L. KHATRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

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