

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

19

ORDERS OF THE BENCH

Date of Order: 14.12.2011

OA No. 287/2009 with MA No. 203/2009 & MA No. 81/2011

Mr. S.S. Ola, counsel for applicant.
Mr. D.K. Pathak, counsel for respondents.

Heard. O.A. & MAs are disposed of by a separate order on the separate sheets for the reasons recorded therein.

Anil Kumar
(ANIL KUMAR)

MEMBER (A)

K. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

Kumawat

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 14th day of December, 2011

Original Application No. 287/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

R.K.Mishra
s/o Late Shri P.D.Mishra,
presently working on the post of
Sr. Goods Guard, Headquarter Office,
Jaipur r/o Plot No.5, Singh Bhoomi Colony,
Khatipura, Jaipur

.. Applicant

(By Advocate: Shri S.S.Ola)

Versus

1. Union of India
through its General Manager,
North Western Railway,
Hasanpura,
Jaipur.
2. Divisional Railway Manager,
North Western Railway,
Hasanpura, Jaipur.
3. Shri Rishikesh Mudgal,
presently working as
Passenger Guard in the
Office of Station Manager,
NWR, Jaipur

.. Respondents

(By Advocate: Shri D.K.Pathak)

ORDER (ORAL)

By this OA the applicant challenged the seniority list of Guards (Ann.A/1) issued by the respondents. He claims seniority treating him appointee of the year 1983 on the Group-C post.

2. The applicant also filed a Misc. Application No.203/2009 for condonation of delay in filing the present OA. We have considered the Misc. Application and the explanation given, but we find no cogent explanation for condonation of delay in filing the present OA. As such, the Misc. Application for condonation of delay is dismissed and without going into merit of the case, we are of the view that the settled position after a lapse of so many years cannot be unsettled as per the ratio decided by the Hon'ble Apex Court in the case of B.S.Bajwa and another vs. State of Punjab and others reported in 1998 SCC (L&S) 611 wherein the Hon'ble Apex court in part 7 observed as under:-

“7. Having heard both sides we are satisfied that the writ petition was wrongly entertained and allowed by the Single Judge and, therefore, the judgments of the Single Judge and the Division Bench have both to be set aside. The undisputed facts appearing from the record are alone sufficient to dismiss the writ petition on the ground of laches because the grievance was made by B.S.Bajwa and B.D.Gupta only in 1984 which was long after they were all along treated as junior to the other aforesaid persons and the rights inter se had crystallized which ought not to have been reopened after the lapse of such a long period. At every stage others were



promoted before B.S.Bajwa and B.D.Gupta and this position was known to B.S.Bajwa and B.D.Gupta right from the beginning as found by the Division Bench itself. It is well settled that in service matters the question of seniority should not be reopened in such situation after the lapse of a reasonable period because that results in disturbing the settled position which is not justifiable. There was inordinate delay in the present case for making such a grievance. This alone was sufficient to decline interference under Article 226 and to reject the reject writ the writ petition."

3. Thus, in view of the ratio decided by the Hon'ble Apex Court (supra), no interference whatsoever is required in this OA, which is accordingly dismissed with no order as to costs.

4. In view of the order passed in the OA, no order is required to be passed in MA No.81/2011, which shall stand disposed of accordingly.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/