

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL


31.08.2009

OA No. 380/2009

Mr. C.B. Sharma, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 31st August, 2009

ORIGINAL APPLICATION NO. 380/2009

CORAM:

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

Akhil Bhargava son of Shri M.B. L. Bhargava aged about 53 years, resident of 174 A, Ridhi Sidhi Nagar, Bundi Road, Kota and presently working as Station Superintendent Tirath, West Central Railway, Kota Division, Kota.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through General Manager, West Central Zone, West Central Railway, Jabalpur.
2. Divisional Railway Manager, West Central Railway, Kota Division, Kota.

.....RESPONDENTS

(By Advocate : -----)

ORDER (ORAL)

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

- "(i) That the respondents be directed to allow promotion to the applicant in the scale of Rs.1600-2600 w.e.f. 23.8.1994 and further scale Rs.2000-3200 w.e.f. 22.9.1997 from the date juniors so allowed with due fixation of pay and seniority by quashing letter dated 25.8.2008 (Annexure A/1) with all consequential benefits.
- (ii) That the respondents be further directed to hold good seniority assigned to the applicant vide order dated 14.06.2006 at Annexure A/14 by quashing order dated 11.7.2006 (Annexure A/15) with all consequential benefits.
- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the cost of this application may be awarded."

W.L.

2. As can be seen from the prayer clause, the applicant is claiming promotion in the scale of Rs.1600-2660 w.e.f. 23.08.1994 on the ground that junior person to him like Shri A.K. Tyagi has been promoted in the said grade vide order dated 23.08.1994. From the material placed on record, it is evident that applicant was awarded minor punishment of stoppage of due set off pass in major penalty proceedings vide order dated 14.07.1997 (Annexure A/4) and thereafter the applicant was allowed promotion in the grade of Rs.1600-2660 vide order dated 30.07.1997. Learned counsel for the applicant submits that subsequently this order of promotion in the grade of Rs.1600-2660 was extended to him w.e.f. February, 1996.

3. Be that as it may, since in this OA the applicant has not challenged the ^{validity of} order dated 23.08.1994 whereby person junior to him has been promoted whereas he was granted promotion on subsequent date, we are of the view that this OA cannot be entertained at this belated stage. That apart, it is not equitable for us to grant this relief to the applicant after a lapse of about 15 years.

4. Another relief sought by the applicant is that he should be granted the scale of Rs.2000-3200 w.e.f. 22.09.1997. The said scale was granted to a junior person to the applicant from the earlier date whereas the applicant was allowed ad hoc promotion in the said grade w.e.f. 05.10.2000 and regular promotion w.e.f. 12.03.2001. Thus we are also of the view that applicant is not entitled to raise this issue of grant of such pay scale w.e.f. 22.09.1997 after a lapse of about 12 years from the date when such scale was granted to his junior.

5. Further grievance of the applicant, ~~is~~ regarding quashing of the order dated 25.08.2008 (Annexure A/1) whereby claim of the applicant for grant of pay scale of Rs.1600-2660 w.e.f. 23.08.1994 and Rs.2000-3200 w.e.f. 22.09.1997 was rejected, cannot also be entertained being a stale claim. That apart, the applicant has also not challenged the validity of the order(s) whereby promotion was granted to the junior to him w.e.f. 23.08.1994 in the grade of Rs.1600-2660/-

and w.e.f. 22.09.1997 in the grade of Rs.2000-3200/-. Thus in view of these reasoning, we see no infirmity in the order dated 25.08.2008 (Annexure A/1).

6. Further challenge/prayer of the applicant regarding seniority as assigned to the applicant vide order dated 14.06.2006 (Annexure A/14), which has been subsequently changed and modified vide order dated 11.07.2006 (Annexure A/15) cannot be entertained, as in the seniority dated 14.06.2006, the applicant was placed at higher position to the so-called junior person who was promoted in the grade of Rs.1600-2660 and further promoted in the scale of Rs.2000-3200/- earlier to the applicant. Thus we see no infirmity in the action of the respondents whereby they have rectified the mistake and issued another seniority listed dated 11.07.2006 (Annexure A/15).

7. At this stage, we wish to notice certain judgments rendered by the Apex Court whereby the Apex Court has held that Tribunal or Court should not examine the matter ignoring the inordinate delay. In the case of **P.S. Sadasivaswamy vs. State of Tamil Nadu**, AIR 1974 SC 2271, the Apex Court has held that person seeking proforma promotion and is aggrieved by an order promoting a junior person over his head; such person should approach the Court within six months or at the most a year of such promotion. It was under these circumstances that no relief can be granted to the applicant.

8. Further the Apex Court in the case of **Gian Singh Mann vs. High Court of Punjab & Haryana**, AIR 1980 SC 1894, has held that where a person has prayed before the Court after a lapse of about 11 years from the date on which promotion is claimed, it was held that inordinate delay could not be overlooked on the ground that petitioner was making subsequent representations.

9. Learned counsel for the applicant submits that since his representation has been decided vide order dated 25.08.2008 (Annexure A/1), as such this OA is within limitation. Such contention of the learned counsel for applicant cannot be accepted. The Apex

Court has repeatedly held that filing of representation and decision on this representation shall not extend cause of action. At this stage, it will be useful to notice the decision of the Apex Court in the case of C. Jacob vs. Director of Geology and Mining and Another, 2008 (2) SCC (L&S) 961, where the Apex Court has held that Court should not examine the stale claim and in case representation is decided by the Department, that will not revive cause of action.

10. In view of what has been stated above, we are of the view that applicant is not entitled to any relief. Accordingly the OA is dismissed at admission stage with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ