

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.431/2018

This the 26th day of September, 2018

**Coram : Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Shri Jagdishchandra
Son of Shri Swarnchand Birdi
Age 62 years,
Redt. Sr. DCM of the Respondents
Residing at : “Sankamal”
Rail Nagar-2, Street No.3 B/h. Popat Para
Rajkot 360 001. Applicant

(By Advocate : Shri M.S.Trivedi)

VERSUS

1. Union of India through
The Secretary
Ministry of Railways
Railway Board, Rail Bhavan
New Delhi 110 001.
2. The General Manager
Western Railway
Churchgate, Mumbai 400 020.
3. The Divisional Railway Manager
O/o. DRM, Western Railway

Divisional Office, RJT Division
Kothi Compound,
Rajkot 360 105. Respondents.

O R D E R – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Heard learned counsel, Shri M.S.Trivedi for the applicant.

The prayer as has been made in the OA reads as under:

- (A) *That the Hon'ble Tribunal be pleased to allow this petition*
- (B) *That the Hon'ble Tribunal further be pleased to hold/declare that the impugned ex-facie, illegal, arbitrary, unjust and unconstitutional action/decision on the part of the respondents not giving/extending benefits of regular grade of JAG and promotion to selection grade, whereas the same is given to his junior i.e. Dibbanjan Roy and inaction on the part of the respondents not considering the applicant's request/representation dated 31.8.2016 ending with request dated 25.3.2018 which had caused grace, serious injustice and recurring financial loss to the applicant, is null and void ab initio and nullity in the eyes of law.*
- (C) *That the Hon'ble Tribunal further be pleased to direct the respondents to give/grant benefit of selection grade from the date his junior is promoted/ given with all consequential benefits, arrears and 12% interest thereon.*

(D) Such other and further relief/s as may be deemed just and proper in view of the facts and circumstances of the case may be granted.

2. From pleadings, it transpires that applicant is having grievance from Order of respondents, dated 11.02.2015 (Annexure A-3). Feeling aggrieved by Order of respondents, dated 11.02.2015, applicant made representation, to the respondents department on 31.8.2016 i.e. after about one year, six months and twenty days of the order. This OA was preferred on 07.8.2018.

3. There is no application for condonation of delay and issue is whether the OA is barred by limitation? As far as limitation period relates, a person aggrieved by the Order affecting his service condition may approach the Tribunal, if he gives his representation, after expiry of six months but before expiry of one year thereafter, meant to say that after representation total period of one and half year is there to approach the Tribunal. In instant case, as noted above, representation was given on 31.8.2016 and the applicant had to wait for six months i.e. till February, 2017 and he thus could agitate and can knock at the door of Tribunal from the first week of March, 2017 to till end of

February, 2018 but as noted above, the OA has been filed on 07.8.2018 after expiry of period of limitation, as provided under A.T.Act, 1985. Learned counsel while arguing that the matter is within limitation submits that this is a matter relating to pensionary benefits also and that is why this is a case of continuous cause and period of limitation is not applicable but we did find ourselves unable to accept said contention because the matter has finally been decided on 11.2.2015. Learned counsel also has argued that after rejection of the representation, fresh representation dated 25.3.2015 was preferred and therefore, the matter is not barred by limitation. We did find this contention as well, without substance because if limitation period expires, it could be earned by another representation. So far Order dated 11.2.2015 relates, the OA is barred by limitation and therefore it cannot be entertained and is not maintainable unless delay is condoned. Needless to say, there is no application for condonation of delay. Accordingly, the OA is dismissed.

4. Before parting it is worth to note that during argument it also has been urged that one elaborate and comprehensive representation, dated 25.3.2018 has been given by the applicant and no order has been passed thereon. Any how, having seen the

whole entirety of the matter and the fact that applicant has given another representation dated 25.3.2018, which is stated to be under consideration till yet, we direct the respondent department to dispose off the same at the earliest as possible but not later than three months from date of receipt of copy of this Order.

5. With these observations, OA is dismissed.

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)

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