

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA NO.3892/2013
MA NO.1084/2015**

Order reserved on 21.02.2017
Order pronounced on 09.03.2017

**HON'BLE MR P.K. BASU, MEMBER (A)
HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**

Teja Singh,
S/o Shri Mohan Singh,
Retd. Chief Publicity Inspector,
Northern Railway,
New Delhi.
through Smt. Kulwant Kaur (LR)

Residential Address:-

30-C, Deep Enclave,
Ashok Vihar, Phase-III,
Delhi -110052.

...Applicant

(By Advocate: Mr. G.D. Bhandari)

VERSUS

1. Union of India through
the General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.
2. The Secretary,
Ministry of Railways,
Railway Bhawan,
New Delhi. ...Respondents

(By Advocate: Mr. Kripa Shankar Prasad)

:ORDER:**DR BRAHM AVTAR AGRAWAL, MEMBER (J):****MA No.1084/2015**

The MA filed for impleadment of the widow of the applicant as his legal representative stands allowed.

OA No.3892/2013

The applicant retired as a Chief Publicity Inspector in the Public Relations Department on 28.02.2002. He has filed the instant OA on 29.10.2013 craving for his promotion as a Public Relations Officer (a Group "B" post) on ad hoc basis in place of one Shri Ubedur Rehman occupying one post since before 1999.

2. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.
3. Two preliminary objections have been raised on behalf of the respondents : (i) the OA is hit by limitation, the same having been filed after more than 11 years even after retirement; and (ii) the OA is also not maintainable because of non-joinder of necessary party.
4. We do feel that this OA needs to be disposed of in the light of the preliminary objections and without going into the merits of the matter.

5.1 As for the first preliminary objection as to limitation, we may note the following holding of the Hon'ble Supreme Court in **D.C.S.**

Negi Vs. UOI & Ors. (judgment dated 07.03.2011):

"A reading of the plain language of the above reproduced section* makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21 (1) or Section 21 (2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21 (1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21 (3)."

5.2 Neither any application has been filed seeking condonation of delay in filing the OA, nor any sufficient cause shown for not filing the OA within the prescribed period.

5.3 In **UOI Vs. Harnam Singh** [(1993) 2 SCC 162], the Hon'ble Supreme Court observed:

"The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire."

6. As regards the second preliminary objection, it may be noted that the OA does suffer from non-joinder of necessary party, viz., Shri Ubedur Rehman.

* section 21 of the AT Act 1985

7. In the light of the above, we are of the view that the OA is not maintainable and the same is hereby dismissed. No order as to costs.

(DR B.A. AGRAWAL)
MEMBER (J)

(P.K. BASU)
MEMBER (A)

/JK/