

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/514/2010

Jabalpur, this Friday, the 27th day of July, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Smt. Usha Karunakaran, W/o Shri Karunakaran P. Head Clerk,
aged about 59 years, R/o 237/5, Railway Ground, Civil Lines,
Jabalpur (M.P.) 482001
-Applicant

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India, Ministry of Railway through its General
Manager, West Central Railway, Indira Market, Jabalpur – 482001.

2. Divisional Railway Manager (P), West Central Railway,
Jabalpur Division, Jabalpur (M.P.) 482001.

3. Shri Rakesh Deewan, O.S.I, Station Superintendent, West
Central Railway, Railway Station, Jabalpur (M.P.) 482001.

4. Shri P.K. Kapoor O.S I, Settlement Section, Office of DRM (P),
West Central Railway, Jabalpur (M.P.) 482001 **- Respondents**

(By Advocate – Shri Ashok Mishra for official respondents)

O R D E R

By Navin Tandon, AM.

The applicant is working as Head Clerk with the respondent
department-Railways (since retired). She is aggrieved by her non
promotion as Office Superintendent-II and hence, this Original
Application has been filed.

2. The applicant has sought for the following reliefs:

“7. Relief Sought:

- (i) Summon the entire relevant record from the respondents for its kind perusal;
- (ii) Set aside the order dated 6.1.2010 Annexure A/1;
- (iii) Direct the respondents to consider the case of the applicant for promotion on the post of OS Grade-II under Cadre Restructuring with effect from 1.11.2003 with all consequential benefits;
- (iv) Any other order/direction may also be passed.
- (v) Award cost of the litigation in favour of the applicant.”

3. The applicant submits that she is holding the post of Head Clerk since 01.01.1994. However, she has not been granted any promotion since that time. She further submits that, in the seniority list dated 15.01.2003 (Annexure A-3), Shri P.K. Kapoor and Shri R.K. Deewan, who were medically decategorised while working on the post of ASM and absorbed in the Ministerial cadre of Personnel Branch, have been placed above the applicant, which is against the provision of Para 1310 and 1311 of IREM Vol.I.

3.1 The applicant is aggrieved by the fact that though she was entitled to get the benefit of upgradation under the cadre restructuring scheme w.e.f. 01.11.2003, but the same has not been extended in her favour.

3.2 She has submitted the list of all the charge-sheets served on her (Annexure A-6) and submits that except one case of major penalty, all the other charge-sheets are of minor penalty. Even the sole case of major penalty was set aside by this Tribunal in OA No.915/2005. Therefore, there should not have been a bar in promoting the applicant.

3.3 The applicant also submits that she has not been served with any adverse ACR prior to 01.10.2003 and, thus, under the modified selection process, the applicant was very much entitled to get the benefit of promotion to the post of OS-II w.e.f. 01.10.2003.

3.4 The respondents have considered her representation and communicated on 06.01.2010 (Annexure A-1) that she was found unsuitable by the Selection Committee, and therefore, she was not promoted.

4. The official respondents have filed their reply and they submit as under:

4.1 The respondents have objected that this OA is barred by limitation. The first cause of action occurred on 19.08.2004 when promotion orders of other employees were issued. Subsequently, on 01.10.2007 (Annexure R-1), the

applicant was apprised of her non selection due to unsuitability. Therefore, the O.A is time barred and filed well after the limitation prescribed under the Administrative Tribunals Act, 1985 (for brevity 'Act'). The letter dated 06.01.2010 (Annexure A-1) is a subsequent communication and cannot be considered as a ground for limitation.

4.2 This Original Application has been filed for her non promotion, and therefore, the issue of absorption of medically decategorised staff cannot be raised in the instant OA, as it is a separate matter and multiple relief cannot be claimed in the O.A.

4.3 It has been averred that the punishments of minor penalty, have not come in the way of promotion as OS-II w.e.f. 01.11.2003. The applicant was considered but not found suitable on the basis of her ACRs for the preceding three years.

4.4 The applicant was communicated about adverse ACRs for 2001-02 and 2002-03. She made representation against such adverse ACRs, which was considered and rejected.

4.5 The absorption of private respondents on medically decategorisation has been correctly done as per Railway Board instructions 89/99 amending Para 1310 of IREM and is as per rules.

5. Heard both the parties and perused the pleadings and documents available on record.

6. It is seen that no rejoinder has been filed by the applicant, and therefore, the averments made by the respondents, have not been controverted.

7. It is clear from the record that the promotion orders to the post of OS-II, were issued in the year of 2004. Based on her representation, the applicant was apprised on 01.10.2007 (Annexure R-1) being adjudged unsuitable by the Selection Committee. Therefore, this OA filed in July, 2010, is time barred under Section 21 of the Act.

8. So far as the issue of seniority of two private respondents above the applicant, it is seen that they were given the seniority in 2001, and therefore, raising that issue in 2010 is also barred by limitation. In the present case, the official respondents have been successful in demonstrating that the private respondents were

awarded proper seniority as per rules as per Para 1310 of IREM Vol.-I, which is not controverted by the applicant.

9. As regards to the issue of grant of promotion to the applicant, it is very clear that the applicant was graded as below average in the years preceding the promotion. These ACRs were communicated to her. She had represented against the same, but was rejected. Therefore, the ground of non communication of ACRs, is not held valid.

10. The Selection Committee has considered the case of the applicant for promotion, but found unsuitable considering her previous ACRs.

11. In view of the above, we find no merit in the Original Application. Accordingly, the OA is dismissed as it is barred by limitation and devoid of merits. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-