

CENTRAL ADMINISTRATIVE TRIBUNAL,MUMBAI BENCH, MUMBAIORIGINAL APPLICATION No. 181 OF 2017

Dated:- 5th day of October, 2017.

Coram:Hon'ble Shri Arvind J. Rohee, Member (J)
Hon'ble Mr. R. Vijaykumar, Member (A).

Shri. K.B. Warde

Age: 69 years, Occu: retired,
OT Section, Milind Nagar,
Behind Primary School No. 14,
Ulhas Nagar, District- Thane

...Applicant.

(By Advocate Shri. G.S. Walia)

Versus**1. Union of India.**

Through The secretary
Department of Railways,
Rail Bhawan, Railway Board,
New Delhi 110001.

2. The General Manager

Central Railway
D.N. Road, Chatrapati Shivaji Terminus,
Mumbai 400 001.

3. The Additional General Manager

GM's Office, Central Railway
D.N. Road, Chatrapati Shivaji Terminus,
Mumbai 400 001.

4. Chief Personnel Officer (S&M)

Central Railway
D.N. Road, Chatrapati Shivaji Terminus,
Mumbai 400 001.

5. The Deputy Chief Manager

Railway Printing Press,
Byculla, Mumbai 400 027. ...Respondents.

Order reserved on : 28.09.2017.

Order pronounced on : 05.10.2017.

O R D E R

Per: Hon'ble Mr. R. Vijaykumar, Member (A).

This O.A. has been filed on 03.07.2015 by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"**(A)** By issue of an appropriate order or directions the respondent authorities may be directed to consider case of the applicant for grant of relaxation from minimum qualifying service as per the extant rules prevailing on the date when applicant had become eligible for promotion i.e. July 2006 within a period of three months and on being found eligible promotional benefits with all consequential reliefs may kindly be released to the applicant within a period of 3 months.

(B) Any other suitable relief to which the applicant may be found eligible and entitled in facts and circumstances of the case may kindly be granted in the interest of justice and equity."

2. The OA was filed on 03.07.2015 and it took nearly two years for office objections to be removed until it was finally listed under the above number on 30.06.2017 and after absence of the applicant on 07.07.2017, the

case was considered today for admission and condonation of delay.

3. The factual matrix of the applicant's case is as follows:-

4. The applicant was initially appointed as Safaiwala in the Central Railway on 08.05.1967 and after several years, he was promoted as Junior Engineer Grade-I on 27.06.2005 and presumably joined on the same day. He then retired on 28.02.2007. He has claimed that he was eligible for promotion to the post of Section Engineer for which the JE-I is the feeder category after one year of service on 26.07.2006. He relies on a R.B.E.96/94 circular of the Ministry of Railways dated 11/10-11/1994 which looked into the requirement of relaxing the two years service requirement in the feeder category for promotions in Group-C category employees. The Board decided that in the case of running categories the two years service condition may be relaxed with the personal approval of the General Manager whenever such relaxation is found to be inescapable in the interest of administration subject to the condition of

minimum qualifying service of one year in the immediate lower grade. The Central Railways issued notification from the Deputy Chief Manager (P&S), Byculla on 03.02.2007 proposing to form a panel to the promotion of section Engineer and scheduling the written test on 27.02.2007, a day prior to superannuation of the applicant.

5. Alluding to the above facts, the applicant has contended that this action of his office superiors was intended to defeat the right of the applicant to gain promotion and was mala fide in nature.

6. On the request for condonation of delay, he says he was following the case for promotion with various authorities since several posts were lying vacant and that he considered the promotion as part of his legitimate expectations. He states that he has been continuously following up on this issue after retirement with the respondents on 06.11.2013, 13.01.2014 and 01.03.2014 but received no reply to his requests and reminders. The applicant was represented by Shri. G.S. Walia, learned counsel, who

emphasized the need to address the issue of condonation of delay and pressed the points made in the applicant. On inquiry about whether the circular mandated an experience of one year as adequate for promotion to Section Engineer, he had nothing to say.

7. The matter has been carefully considered. By the applicant's own statement the cause of action, if any, arose on 26.07.2006 and latest by the date of superannuation on 28.02.2007. The long delay of eight years has not been explained by the applicant and it cannot be held that a claim to promotion can be a continuous cause of action to enable condonation of delay. Further, in this case, the impugned circular of the railway board clearly places the discretion on the General Manager of the concerned Railway to examine the various circumstances of deployment and inescapable need before reducing the qualifying period for promotion. This Tribunal cannot substitute it's opinion for the judgment of the General Manager of the Railways. Therefore, the OA also lacks merits that could dictate a need to consider the issue of

condoning delay.

8. In the circumstances, this OA deserves no consideration and is dismissed on the grounds of limitation. No order as to cost.

(R. Vijaykumar)
Member (A)

(A. J. Rohee)
Member (J)

srp