

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.43/2017

Date of Decision: 03.10.2018.

CORAM:HON'BLE DR. BHAGWAN SAHAI, MEMBER (A)
HON'BLE SHRI R.N. SINGH, MEMBER (J)

1. Shri Lala Prasad Behera
S/o Surendra Mohan Behera,
Age 41 years, working as Ticket Examiner,
Under Divisional Chief Ticket Inspector,
Solapur Station, Solapur 413 001.
R/at Railway Quarter No.5/114,
Ganesh Hall, Railway Colony,
Solapur – 413 001.
2. Shri Rudradharelal S/o Rohitlal Ram,
Age 33 years, working as Ticket Examiner,
Under Divisional Chief Ticket Inspector,
Solapur Station, Solapur 413 001.
R/at Railway Quarter RB-II 2/45,
Ganesh Hall, Railway Colony,
Solapur 413 001.
3. Shri Mahesh Kumar S/o Mohan Prasad,
Working as Ticket Examiner,
Under Divisional Chief Ticket Inspector,
Solapur Station, Solapur 413 001.
R/at Indravishwa Apartment, Plot No.24
B, Defence Colony, At Post: Daund 413 801.
Dist. Pune. ... *Applicants*

(Advocate Shri D.N. Karande)

VERSUS

1. Union of India, through
The General Manager,
Central Railway, 2nd Floor of
General Manager's Office, CST,
Mumbai 400 001.
2. Chief Personnel Officer,
Central Railway, 1st Floor of General Manager's
Office, CST, Mumbai 400 001.

3. Divisional Railway Manager,
Central Railway, Divisional Office,
Solapur 413 001.

4. Sr. Divisional Personnel Officer,
Central Railway, Divisional Office,
Solapur 413 001. ... **Respondents**
(Advocate Shri V.D. Vadhavkar)

ORDER (Oral)
Per : Shri R.N. Singh, Member (J)

At the outset, learned counsel for the applicants submits that the Applicant No.3 is no more interested in pursuing the present OA in view of the fact that he is satisfied with the action taken by the respondents and in this regard he draws our attention to Exhibit R-2 with the reply-affidavit of the respondents which reads as under:

“...In this connection I was approached to DRM(P) Office Solapur and requested to resolve my grievance and seen all records based on which the seniority was prepared. I have convinced that the seniority assigned is correct and now I have no any grievance about the seniority which was published on 17.12.2014.

In view of the above I unconditionally withdraw my representation dated 10.07.2015.

2. Accordingly, the OA is dismissed as withdrawn qua the applicant no.3.

3. MA No. 703/2017: By this MA, the applicants have sought condonation of delay in filing the OA. Learned for the applicants

submits that the delay is of about three months. There is no reply filed on behalf of the respondents to this MA. Learned counsel for the respondents submits that though the respondents have not filed reply to this MA, however, repeated representations will not extend the period of limitation and therefore, the MA should fail. However, keeping in view the facts and a specific averment of the applicants in para 3 of such MA that the applicants claim has not been considered in accordance with relevant rules of the respondents, he has got a very strong case in his favour and the MA should be allowed. It is also found that in as much as the impugned order dated 14.10.2015 is not reasoned and speaking.

4. We have gone through the impugned order dated 14.10.2015. In that the respondents have considered the representation of the applicants and they have also given cogent reasons for rejecting the claim of the applicants. We find that the applicants have not even indicated any specific delay, condonation of which has been sought in the present OA. The

Applicants have also not indicated any substance and good ground which has prevented them in approaching the Tribunal. Accordingly, the MA fails and the same is **dismissed**. No order as to costs.

5. We have also gone through the OA, it is found that though the applicants' claim that they are senior and eligible for promotion to the post of Senior Ticket Examiner (Grade of Rs.9300-34800 + GP Rs.2800/-) from the date of their juniors, who have joined and placed in subsequent batches. It is found that the applicants have not impleaded any one even in representative capacity as to who is the junior to these applicants and from which date the so-called juniors have been promoted and with effect from which date these applicants are claiming seniority. We find that when query has been put to learned counsel for the applicants as to why not even a single person has been impleaded in representative capacity, he submits that the applicants' claim is only against the respondents and such claim is based on

alleged violation of Article 14 and 16 of the Constitution and when the relief is claim against the Rule making authorities, the applicants are not supposed to implead any other person as a party respondent in the OA.

6. We have considered the submissions made on behalf of the learned counsels for the parties. We find that the OA is not maintainable not only for being barred by limitation but also for non-joinder of necessary party and also without having any justifiable reasons to interfere with the order passed by the respondents. Moreover, there is not even a prayer in the OA against the final order dated 14.10.2015 (Exhibit R-4) page 79 which has been passed by the respondents on representation of the applicant no.2.

7. In view of the above, MA and OA both fail and accordingly they are dismissed. No order as to costs.

(R.N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

dm.