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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

Original Application No.180/000238/2015

**Thursday, this the 7<sup>th</sup> day of March, 2019**

**CORAM:**

**HON'BLE Mr.E.K.BHARAT BHUSHAN,** ...ADMINISTRATIVE MEMBER  
**HON'BLE MR.ASHISH KALIA,** ...JUDICIAL MEMBER

Shri P.K.Beeran,  
Crane Driver Grade-I, (Retd),  
Pullankulavan, Khanee Palace House,  
Ganesh Giri, Shornur, Palghat. ....Applicant

**(By Advocate Mr.Siby J.Monippally)**

## Versus

1. The Union of India rep. By  
Chief Personnel Officer,  
Southern Railway,  
Chennai.
2. The Senior Divisional Personal Officer,  
Southern railway, Palghat Division,  
Palghat. ....Respondents

**(By Advocate Mr. Sunil Jacob Jose for Respondents)**

This application having been heard on 28<sup>th</sup> February, 2019, the Tribunal on 7<sup>th</sup> March, 2019 delivered the following :

## ORDER

## **HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER**

OA No.238/2015 is filed by Shri P.K.Beeran, retired Crane Driver Grade-I against the action of the respondents in not granting him promotion as Senior Technician (Crane Driver) with effect from 31.05.2004. The applicant

.2.

had entered service of the Railways in 1973 and was granted temporary status on 26.01.1976. He was appointed as Khalasi Helper on 01.12.1983. He obtained promotion as Crane Driver Grade-II on 18.10.1995 and Crane Driver Grade-I on 23.09.2004. He finally retired from service on 30.06.2013. He submits that he ought to have been promoted as Crane Driver Grade-I in 2001 itself on account of a vacancy that he claims to have arisen. He was the senior most in the cadre and no justifiable reasons have been put forward to deny him promotion.

2. The respondents have filed reply statement where the claim of the applicant have been disputed. At the outset, it is maintained by the respondents that the OA is hit by limitation, as he is claiming promotion as Crane Driver Grade-I with effect from 2001 and Senior Technician (Crane Driver) with effect from 31.05.2004. It can be seen that the OA is filed in 2015 after a time lag of more than 15 years and no cogent reasons have been advanced to explain the delay.

3. Apart from the limitation question, the respondents have opposed the relief sought on merits also. It is maintained that the OA is for grant of promotion to a post which did not exist. There is no evidence that has been adduced of the existence of a post of Senior Technician (Crane Driver). The respondents call to their assistance the order of this Tribunal in OA No.1091/2012, wherein it has been held that when a promotional post is not

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available, the question of considering someone to that post does not arise.

**In State of Maharashtra Vs. Chandrakank Anant Kulkarni – (AIR 1981 SC**

**1990)**, the Hon'ble Supreme Court had held that mere chance of promotion is not a condition of service that the employer is required to fulfill. While a right to be considered for promotion is a term of service but opportunity for promotion is not.

4. It is seen that the applicant has put forward the claim for promotion after a significant time lag. We have heard the standing Counsel for the Railways, who strongly disputed the contentions raised in the OA. We find the OA fails on two counts, namely on the issue of delay of 14 years from the time the promotion is claimed and on merits also. OA is dismissed devoid of merit. No costs.

**(ASHISH KALIA)  
JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)  
ADMINISTRATIVE MEMBER**

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**List of Annexures in O.A. No.180/000238/2015**

- 1. Annexure A1:** Copy of the seniority list dated 3.7.1998 issued by Senior Divisional Personnel Officer, Palghat..
- 2. Annexure A2:** Copy of the promotion order issued by Senior Divisional Personnel officer, Palghat Division.
- 3. Annexure A3:** Copy of the order issued by Senior Divisional Personnel officer, Palghat Division.
- 4. Annexure A4:** Copy of the representation dated 5.2.2015 to grant him promotion, to Senior Divisional Personnel Officer, Palghat Division.
- 5. Annexure R1:** Copy of promotion order dated 13.10.1995
- 6. Annexure R2:** Copy of this Tribunal's order dated 25.08.2010 in OA No.248/2010.
- 7. Annexure R3:** Copy of the letter dated 24.02.2015.

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