

**Central Administrative Tribunal
Principal Bench**

OA No.1168/2018

New Delhi, this the 30th day of August, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sh. P. S. Vimal (Aged about 76 years),
IRTS (Retd.) Ex-COM/Survey, SE-Rly,
S/o Late Sh. Angan Lal,
R/o A-303, Rail Vihar, Sector-3,
Vasundhara, Ghaziabad (U.P.).

.... Applicant
(Applicant in person)

Vs.

1. Union of India,
Thorough its Secretary,
Railway Board, Ministry of Railways,
Rail Bhawan, New Delhi.
2. The Member Staff, Ex. Officio Secretary,
Ministry of Railway,
Rail Bhawan, New Delhi.
3. The Secretary,
Dept. of Personnel & Training,
Ministry of Home, New Delhi.
4. The General Manager,
South-Eastern Railway,
11, Garden Road, Kolkata-41.
5. The General Manager,
Eastern Railway,
Fairline Place, Kolkata.
6. S B Ghosh Dastidar,
W-6/30, DLF, Phase – III,
Gurgaon – 122002.

. Respondents.

(By Advocate : Mr. V. S. R. Krishna and Mr. Kripa
Shankar Prasad with Mr. Prabodh Kumar Singh)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman :**

The applicant retired from the service of South Eastern Railway as Chief Operational Manager on 31.07.2001. Challenging the promotion which took place after his retirement to the HAG, he filed OA no. 1184/2002 before this Tribunal. The OA was dismissed on 20.12.2004. Review petition filed by him was rejected on 14.02.2005. Thereafter, he filed Writ Petition before the Hon'ble Delhi High Court. Though its order dated 30.04.2009, the Hon'ble Delhi High Court remanded the matter to the Tribunal for fresh consideration.

2. After remand, the OA was heard at length and was dismissed on 13.10.2011. The applicant filed WP (C) 1137/12 before the Hon'ble High Court and that was dismissed on 30.01.2013. Review petition filed by him in the High Court was rejected on 30.08.2013. He filed an SLP before the Hon'ble Supreme Court, and that was rejected on 17.01.2014. Review filed by him in the Hon'ble Supreme Court was rejected on 22.05.2014 and he filed a curative petition also. After the proceedings assumed finality with the dismissal of SLP

and review petition, the applicant opened the second round of litigation now, challenging the recommendations of the DPC, which met on 02.06.2001 and other connected proceedings.

3. The applicant contends that there is no bar for him to file the present OA, in view of the fact that SLP was dismissed by the Hon'ble Supreme Court without a reasoned order.

4. Respondents filed a counter affidavit opposing the OA. It is stated that the OA is barred by res-judicata as well as limitation. They submit that the promotion to HAG has taken place after retirement of the applicant and he cannot have any grievance about it. According to them, every contention advanced by the applicant was addressed more than once by the Tribunal as well as the Hon'ble High Court and the Hon'ble Supreme Court, and they cannot be re-agitated.

5. We heard the applicant, who appeared in person, and Mr. V.S.R. Krishna and Mr. Kripa Shankar Prasad with Mr. Prabodh Kumar Singh, learned counsel for the respondents.

6. Rarely we find an instance of the proceedings being pursued with such tenor, if not indiscipline. The applicant felt aggrieved by denial of promotion to HAG and filed an OA. That was dismissed by this Tribunal. After remand by the Hon'ble High Court, it was heard once again and dismissed. The applicant went to the Hon'ble High Court for the second time. On dismissal of the Writ Petition, he filed SLP before the Hon'ble Supreme Court; and that too was dismissed. The applicant instituted second round of litigation before the Hon'ble Supreme Court by filing a review, which too was dismissed.

7. The result is that the dispute raised by the applicant was already dealt with by the Tribunal, the Hon'ble High Court and the Hon'ble Supreme Court in two rounds at every level. The applicant cannot, by any means, raise the issue pertaining to the promotion once again. When the same is pointed out, the applicant states that there is no finality to the issue since the order of the Hon'ble Supreme Court passed in the SLP was without any reasons. It is only persons who lack sense of proportion, or know for their indiscipline, that resort to such things. The applicant

held a senior position in the Railways and was supposed to be disciplined and law abiding.

8. We dismiss the OA. We would have imposed heavy costs but for the fact that the applicant is an aged person.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

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