

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00557/2019

(with MA No.200/00992/2019)

Jabalpur, this Wednesday, the 25th day of September, 2019

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

1. Mohd. Tarique Siddique age 50 years, S/o Shri M.S. Siddique, Loco Pilot Mail W.C. Railway, Bhopal (M.P.) C.III, BDA Colony, Koha Fija, Bhopal (M.P.) 462001, Mob. No.9752417257.

2. Ved Prakash Nandwani, 50 yrs., S/o Shri C.D. Nandwani, Loco Pilot Mail, W.C. Railway, Bhopal, R/o E-217, Old Minal Residency, J.K. Road, Bhopal (M.P.) 462023, Mob. : 9752417298.

3. Vivek Purohit, 48 yrs., S/o Shri K.S. Purohit, Loco Pilot Mail, W.C. Railway, Bhopal, R/o 101-'C', Sector East Kamla Nagar, BHEL, Piplani, Bhopal (M.P.) 462002, Mob.9752417305
-Applicants

(By Advocate – Shri D.P. Pandian)

V e r s u s

1. Union of India through General Manager, West Central Railway, Indira Market Road, Jabalpur (M.P.) – 482001.

2. Divisional Railway Manager, West Central Railway, Bhopal (M.P.) – 462010.

3. The Sr. Divisional Electrical Engineer (Co), TRO, West Central Railway, Bhopal (M.P.) – 462010.

4. The Sr. Divisional Personnel Officer, West Central Railway, Bhopal (M.P.) 462010.

5. Shri Manoj Kumar Narang, S/o Shri H.R. Narang, Loco Pilot Mail, West Central Railway, under C.C.O.R., Bhopal (M.P.) resident of E-119, Old Minal Residency, J.K. Road, Bhopal (M.P.) 462023, Mob.9752417253 **-Respondents**

(By Advocate – Shri A.S. Raizada)

ORDER (REASONED)

By Navin Tandon, AM.

The applicants are aggrieved that subsequent to their promotion vide order dated 05.05.1999 (Annexure A-1), their junior respondent No.5 is getting higher salary than the applicants.

2. Along with the O.A, the applicants have also filed MA No.200/00992/2019 for condonation of delay, wherein they have submitted that “applicant No.2 and other two applicants Sr No.1 and 3 came to know the anomaly in the year 2014”. The applicant No.2 represented his case on 19.10.2018 (Annexure A-9). But the respondents did not take any action on four representations dated 12.06.1999 (Annexure A-6), 25.06.2014 (Annexure A-7), 12.08.2016 (Annexure A-8) and 19.10.2018 (Annexure A-9). It has been submitted that the delay is on account of fault of the administration and they pray for condoning the same.

3. Heard both sides.

4. Section 21 of the Administrative Tribunals Act, 1985 (for short '**the Act**') deals with limitation for filing O.A. before this Tribunal. Under the Act, the limitation has been prescribed for filing O.A. within one year from the date of cause of action. The same can be extended by another six months from the date of filing of appeal if the same is not decided. It has further been mentioned in the Act that if the application is not filed within time as stipulated in Section 21 of the Act, then the applicant has to move a Miscellaneous Application for condonation of delay by explaining why Original Application could not be filed within the limitation.

5. In the case of *D.C.S. Negi vs. Union of India & Ors.*, (2018) 16 SCC 721, the Hon'ble Supreme Court has held as under:

“12. Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under Section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:

“21. Limitation.—(1) A Tribunal shall not admit an application—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.”

13. *A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the*

prescribed period and an order is passed under Section 21(3).”

5.1 From the above, it is clear that the Tribunal has to consider the matter of limitation first.

6. In the instant case, the cause of action arose in the year 1999, when the promotion orders were issued. However, the applicants kept silent and did not agitate the matter since then. Now, in the year 2019, i.e. after two decades, they are seeking relief, without there being any satisfactory explanation for not approaching the Tribunal within the limitation period. Thus, we find that the O.A is barred by limitation as per Section 21 of the Act.

7. In view of the aforesaid, MA for condonation of delay is rejected and the O.A is dismissed as barred by limitation.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-