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## CENTRAL ADMINISTRATIVE TRIBUNAL CALCUTTA BENCH

No. O.A. 1341 of 2015

Date of order: 15.9.2015

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member  
Hon'ble Mr. R. Bandyopadhyay, Administrative Member

SUCHISMITA GHOSH

VS.

UNION OF INDIA & ORS. (Eastern Railway)

For the Applicant : Mr. J.R. Das, Counsel

For the Respondents : Mr. A.K. Banerjee, Counsel

### ORDER (Oral)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard Ld. Counsel for both parties.

2. It is noticed that the applicant, who had appeared at an examination in 2005 against Employment Notice No. RRB/Kol./EN-2/2005 is seeking consideration of her candidature in 2015 i.e. after a lapse of fifteen years on the basis of an RTI reply received by her on 15.11.2013 revealing the following:-

" Please refer to your above application dated 23.10.2013 under RTI Act, 2005 copy of which was received by this office on 24.10.2013 for supply of information.

Your above appeal has been examined. Your original RTI Application dated 12.8.2013 received by this office on 26.8.2013 and the reply sent to you by the PIO of this RRB vide letter No. RRB/KOL/RTI/1120/2013/SG dated 26.9.2013 have also been examined at my level. I have also gone through the relevant records.

I find no infirmity in the reply of PIO.

From the records it reveals that the candidate bearing Roll No. 5285880 for Catg. No. 1-4 of Employment Notice No. RRB/Kol/EN-2/2005 appeared in the written examination held on 7.1.2007. At the time of written examination the said candidate did not properly code her Roll No. on the OMR answer sheet. As such the OMR Answer sheet of the said candidate could not be evaluated and consequently, the said candidate could not qualify in the said 1<sup>st</sup> stage written examination. This is also to inform you that on the basis of the result of the said 1<sup>st</sup> stage written examination and finally the panels of the selected candidates was

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published.

The IPO No. 03F 291003 attached with your above appeal is returned herewith. With this your Appeal is disposed of."

3. It is further noticed that for the first time the applicant communicated with the Railway Recruitment Board after appearing at the examination in 2007 was on 7.3.2009 as Annexure A-4 would manifest. The second representation was preferred after four years on 26.7.2013.

4. It has been held by Hon'ble Apex Court in Civil Appeal No. 1020 / 2005 rendered on 24.5.2007 in the case of **Nadia District Primary School Council & anr. v. Sristhidhar Biswas** that:

"The court only gives benefits to the persons who are vigilant about their rights and not who sit on the fence."

In the said matter, the Hon'ble Apex Court found such persons to be guilty of waiver and acquiescence where such persons approached the Court in 1989 against the panel prepared in 1980. The Hon'ble Apex Court held:

"Delay is very significant in matters of granting relief and courts cannot come to the rescue of the persons who are not vigilant of their rights. Nine years cannot be countenanced."

In **Bhoop Singh v. Union of India & ors.** a decision rendered by the Hon'ble Apex Court (1992) AIR SC 1414 it was held that :

"relief (of reinstatement) be granted to one who is vigilant."

Here a dismissed constable had approached the court after 22 years.

The Hon'ble Apex Court had held that:

" The lapse of such a long unexplained period of several years in the case of the petitioner is a strong reason to not classify them with the other dismissed constables who approached the court earlier and

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° °  
got reinstatement."

The Hon'ble Apex Court further held:

"Inordinate and unexplained lapse is by itself a ground to refuse relief to the petitioner irrespective of the merits of his claim."

If a person entitled to relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the minds of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. It is more so in service matters where vacancies are required to be filled promptly.

5. Having considered the matter in the light of the settled law as referred to hereinabove we hold that the claim of the applicant is hopelessly barred by limitation and, accordingly, we dismiss the O.A.

(R. Bandyopadhyay)  
MEMBER(A)

(Bidisha Banerjee)  
MEMBER(J)

SP