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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2847/2003

Hon'ble Mr. Justice M.A. Khan, Vice Chairman(J)
Hon'ble Mr.D.R. Tiwari, Member(A)

New Delhi, this the 3rd day of October, 2005

Kedar Nath Dua,
Son of Shri Prabh Dayal,
R/o IC-52, NIT,
Market No.1, Faridabad,
Ex. Chief Parcel Clerk (Ex.CPC-HRS),
Hissar

....Applicant

(By Advocate: Shri Surat Singh)

Versus

Union of India through:

1. The Secretary,
Ministry of Railways,
Rail Bhawan, New Delhi
2. General Manager,
Northern Railway Headquarters,
Baroda House, New Delhi
3. Divisional Railway Manager,
Northern Railway,
Bikaner, Rajasthan

....Respondents

(By Advocate: Shri R.L. Dhawan)

Order(Oral)

Justice M.A. Khan, Vice Chairman(J)

The applicant has filed this O.A. praying for a direction to fix his pay in the scale of Rs.425-460/- and granting other consequential benefits.

Justice M.A. Khan

2. The assertions of the applicant in brief are that he was selected as Assistant Station Master (ASM) Group Student vide letter dated 5.6.1953 and after he had undergone the requisite training, he was appointed in Bikaner Railway Office on 8.8.1954. He was confirmed as ASM Grade Rs.205-280 (authorized scale 425-640) on 8.2.1968. The applicant failed in vision test in May, 1975 and the Committee for Alternate Job found him fit for the post of Coaching Commercial Clerk. Divisional Personnel Officer, Bikaner offered the applicant two grades below the lowest grade, the post of Coaching Clerk in the grade of Rs.260-430/- which the applicant accepted subject to his objections. At that time, one post in the grade of Rs.425-640/- was available but the same was not offered to the applicant. One Shri Ramjilal, Goods Clerk, however, was given the said post. The applicant sent his representation dated 10.9.1975 but to no effect. Thereafter, he sent several other representations but they also could not ^{be} of fruits. The applicant was promoted to the next grade of Rs.330-560/- after 3 to 4 months of his absorption and his pay was protected but the grade of Rs.425-640/- was given after 8 to 10 years. The applicant approached the Lok Adalat where the advocate of the Railway pleaded that the matter could be agitated before the Tribunal. Hence this O.A.

3. Respondents in their reply have controverted the claim of the applicant and inter-alia have raised a preliminary objection that the O.A. is barred by time. It has been pleaded that the applicant while working

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as regular ASM in the scale of Rs.425-640/- was declared medically unfit and was called before the Absorption Committee on 7.5.1975 for adjudging his suitability for alternative employment. There was no vacant post of identical grade of Rs.425-640/- at that time. The rules for absorption of medically incapacitated staff in the alternative employment are contained in Chapter XXVI of the Indian Railway Establishment Manual (Second Edition). The applicant was found suitable for the post of Coaching Clerk in the grade of Rs.260-430/- and was given the offer which was accepted by him in writing. He was accordingly absorbed as RBC in the grade of Rs.260-430/- with the approval of the competent authority, as per the rules. He was promoted to the grade of Rs.330-560/- on 10.9.1975. His pay was protected which he was drawing in the grade of Rs.425-640/- and as such, he did not suffer any loss of emoluments. He was again promoted to the post of Head Booking Clerk in the grade of Rs.425-640/- with effect from 1.1.1984. He retired on 31.10.1986 on attaining the age of superannuation.

4.The respondents have also pleaded that this Tribunal has no jurisdiction to entertain the present application in terms of Sub-section (2) to Section 21 of the Administrative Tribunals Act, 1985, the grievance of the applicant having arisen prior to 1.11.1982. It is, therefore, prayed that the O.A. should be rejected as barred by time.

5.We have heard the learned counsel for the parties and have gone through the records.

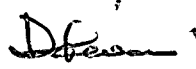
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6. Along with the O.A., an M.A. has been filed seeking condonation of delay in filing of the application. It has been admitted by the learned counsel for the applicant that the cause of action had accrued to the applicant for redressal of his grievance in 1975 and the present O.A. has been filed on 20.11.2003. He has also fairly conceded that this Tribunal has no jurisdiction to entertain an application pertaining to the grievance prior to 1.11.1982. He, however, submitted that the applicant is a poor man and he did not have the financial resources to seek legal remedy for redressal of his grievance before the Legal Services Cell was established to give free legal aid to the needy persons. It is, therefore, prayed that the case being filed with the assistance of the Legal Services, the delay may be condoned. However, according to the allegations made in the O.A., the applicant retired from service on 31.10.1986. Prior to that, he was working as RBC in the grade of Rs.260-430/- and thereafter, he was promoted to the grade of Rs.330-560/- on 10.9.1975. He was again promoted to the post of Head Booking Clerk in the grade of Rs.425-640/- with effect from 1.1.1984 and was receiving the service benefits with other allowances. At that time, he did not need any legal aid to approach the appropriate forum for redressal of his grievances. Even after 1986, he came to the Tribunal only in November 2003. The O.A. is, therefore, apparently barred by Section 21 of the Administrative Tribunals Act, 1985 and there is no good and cogent explanation coming forward for the delay.

7.The learned counsel appearing on behalf of the applicant, in support of the applicant's claim, relied upon the decision in the case of Angoori Devi (Smt.) and another vs. Union of India and others, (1991) 16 ATC 918. However, we find that the facts in the cited case were different since the application for compassionate appointment was filed by the wards of the deceased employee immediately after they attained the age of majority. It is not the position herein.

8.Learned counsel appearing on behalf of respondents has produced before us a copy of the order passed by this Tribunal in O.A.2898/2003 (**Govind Singh and ors. Vs. Union of India and ors.**) decided on 23.8.2004 which covers this case. Since the cause of action in the present case accrued to the applicant way back in 1975 i.e. almost 28 years before the filing of the present application, in view of Sub-section (2) to Section 21 of the Administrative Tribunals Act, 1985, the Tribunal does not have jurisdiction to entertain the present application.

9.For these reasons, the O.A. is dismissed leaving the parties to bear their own costs.


(D.R. Tiwari)
Member(A)


(M.A. Khan)
Vice Chairman(J)

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