

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.671/2019

Date of decision: 05.11.2019

CORAM:- R. VIJAYKUMAR, MEMBER (A).
R.N. SINGH, MEMBER (J).

1. Stany Ignatious Pinto
Age: 52 years,
Occ. Service,
96/1977, Guruprasad SoCiety,
Samata Nagar,
Kandivali (E),
Mumbai-400 101.

... Applicant.

(By Advocate Shri Joe Dsouza)

VERSUS.

1. Union of India (Through)
General Manager,
Central Railway,
General Managers Office,
Mumbai, Maharashtra Pin-400 001.
2. Divisional Railway Manager
Mumbai Division,
Central Railway,
DRM Office, SCMT, Mumbai
Maharashtra-400 001.
3. Officer on Special Duty
Mumbai Division,
Central Railway,
DRM Office, CSMT, Mumbai
Maharashtra-400 001.

4. Sr. Divisional Commercial Manager
Mumbai Division, Central Railway,
DRM Office, CSMT, Mumbai,
Maharashtra 400 001.
5. Divisional Commercial Manager
Mumbai Division, Central Railway,
DRM Office, CSMT, Mumbai,
Maharashtra-400 001.
6. Assistant Divisional Commercial Manager
Mumbai Division, Central Railway,
DR, Office, CSMT, Mumbai,
Maharashtra-400 001.

... Respondents..

O R D E R (O R A L)

Per: R. VIJAYKUMAR, MEMBER (A)

1. When the case is called out, Shri Joe D'souza, learned counsel appeared for the applicant.
2. Heard the learned counsel for the applicant.
3. This OA has been filed by the applicant on 17.09.2019 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"a. That the Hon'ble Tribunal be pleased to allow this Original Application.

b. That this Hon'ble Tribunal be pleased to direct the respondents to modify the impugned order dated 14.01.2008 in consonance with Railway Boards letter No.E(D&A)

89RG6-17 dated 07.03.1989 and place the Applicant in the equivalent grade in which the Applicant was initially appointed.

c. That this Hon'ble Tribunal be pleased to direct the respondents to notionally re-fix the pay of the applicant as per the modified order issued in terms of prayer clause 8(b).

d. Order any other relief which the applicant is entitled to and this Hon'ble Tribunal deems fit in the interest of justice."

4. The applicant was appointed on Compassionate grounds as Junior Booking Clerk on 03.01.1991 and was removed from service w.e.f. 15.03.2004 as a result of disciplinary proceedings. His appeal and revision petitions were rejected on 19.08.2005 and 31.10.2005 respectively and the orders of removal from service were confirmed. He then filed a mercy petition before the respondents on 23.01.2007 (Annexure A-8) requesting re-engagement under para 402 of the IREM and this was stated to have been considered by the respondents in their orders and he was taken on duty by a fresh appointment as Running Room Bearer (RRB), Karjat vide letter no.BB/P/558/GT/ dated 14.01.2008. After receiving

this appointment and taking charge, he has filed a representation on 06.11.2010 (Annexure. A-10) seeking continuation in service as Junior Booking Clerk (JRB) from the date of removal from service and did not received any reply.

5. The learned counsel for the applicant was heard. In the first place, he has not given any explanation of the long delay in excess of fourteen years in filing this OA especially since he had already accepted the fresh engagement as RRB Karjat and has been working in that post for this entire period from 2008. Further, having given up his legal rights, if any, in challenging the order of removal and confirmation thereof by the Revisionary Authority and after having and after having accepted the fresh appointment offer as represented by him without any protest, he has now turned around at this belated stage to reverse the entire proceedings itself by a disguised claim that by giving him a mercy appointment the respondents had reduced his rank from the original level of Junior Booking Clerk to RRB.

6. Having accepted the order, the applicant

is bound by his own acceptance and now cannot turn around and blame the respondents. We, therefore, find this OA devoid of merits as also barred by delay and laches.

7. Accordingly, the OA is dismissed. No costs.

(R. N. Singh)
Member (J)

(R. Vijaykumar)
Member (A)

V.

