

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P (S) No. 7248 of 2017

Mithilesh Kumar Dubey

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Versus

1. Union of India through its Secretary of Railways, Government of India
2. Senior Divisional Personnel Officer, Chakradharpur, South Eastern Railway, Chakradharpur
3. Assistant Personnel Officer, Chakradharpur, South Eastern Railway, Chakradharpur
4. Divisional Railway Manager, Chakradharpur, South Eastern Railway, Chakradharpur
5. Om Prakash --- --- Respondents

--- --- Respondents

CORAM: Hon'ble Mr. Justice Aparesh Kumar Singh
Hon'ble Mrs. Justice Anubha Rawat Choudhary
Through : Video Conferencing

For the Petitioner: Mr. Abhay Kr. Mishra, Advocate
For the Respondents: Mr. Gautam Rakesh, Advocate

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05/12.11.2020 Heard learned counsel for the parties.

2. Learned CAT vide impugned order dated 17.11.2016 passed in O.A. No. 051/00227/2016 has rejected the prayer of the applicant / writ petitioner herein for quashing of the order dated 07.01.1999 passed by the Senior Divisional Personnel Officer, Chakradharpur, whereby Respondent No. 5 was promoted with retrospective effect from 07.02.1998 making him senior to the applicant.
3. Being aggrieved with the order dated 07.01.1999, the applicant / petitioner had made representation on 11.10.2000, then again on 23.01.2004 and subsequently on 07.01.2014, 18.11.2014 and 18.08.2015 as per his case. However, on 12.05.2014 his representation was rejected by the Assistant Personnel Officer, South Eastern Railway, Chakradharpur. Upon consideration of the materials on record, the O.A. was dismissed as hopelessly barred by limitation since cause of action has arisen on 07.01.1999 and the applicant had approached the learned Tribunal in 2016 after 17 years.
3. Learned counsel for the petitioner has placed reliance upon the Constitution Bench decision of the Hon'ble Supreme Court of India rendered in the case of **S.S. Rathore versus State of Madhya Pradesh [(1989) 4 SCC 582; AIR 1990 SC 10]**. He submits that the applicant could approach the learned Tribunal only after his representations were finally disposed of. He has placed reliance upon Section 20 of the Administrative Tribunals Act, 1985 which require exhaustion of alternative remedies before approaching the learned Tribunal.
4. There is opposition to the prayer on behalf of the Railway. Learned counsel for the Railway Mr. Gautam Rakesh submits that the case of the applicant was stale and

hopelessly barred by limitation as he could not have waited for 16 years to approach the learned Tribunal even after his representations were not heeded to. Therefore, there is no merit in this writ petition.

5. We have considered the submissions of learned counsel for the parties in the narrow compass of the facts borne out from the pleadings. Under Section 20 of the Administrative Tribunals Act, the aggrieved person / employee has to approach the learned Tribunal only after exhaustion of alternative remedies. Section 21 of the Administrative Tribunals Act prescribes limitation of one year in approaching the Tribunal from the date on which such final order has been made. Even as per Section 20(b), where no final order is passed by the Government or any other authority competent to pass such order with regard to the appeal preferred or representation made by such person within a period of six months, a person shall be deemed to have availed of all the remedies available to him regarding redressal of the grievances under the relevant sub-rules. Even as per the ratio rendered in the case of **S.S. Rathore (Supra)**, if no order is made on expiry of six months from the date of the appeal or representation as prescribed under section 20 of the Administrative Tribunals Act, 1985, the cause of action arises. It is well settled by now that making repeated representations does not arrest the march of time and make an otherwise stale cause of action revive. This applicant was aggrieved by promotion of his junior with retrospective effect by an office order passed on 07.01.1999. His first representation was dated 11.10.2000. When no order was passed on his representation, the applicant could have approached the Tribunal after expiry of six months from the date of making such application under the Administrative Tribunals Act, 1985 which he failed to do. Therefore, the order dated 12.05.2014 passed after 15 years by the Assistant Personnel Officer, South Eastern Railway, Chakradharpur rejecting his claim, will not revive the cause of action which had become stale and hopelessly barred by limitation. We, therefore, do not find any error in the order of the learned Tribunal. Writ petition being devoid of merit, is dismissed.

(Aparesh Kumar Singh, J.)

(Anubha Rawat Choudhary, J.)