

(2014) 05 RAJ CK 0178
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2084/2013

Permanand and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-05-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 227

Citation : (2014) 05 RAJ CK 0178

Hon'ble Judges : J.K. Ranka, J;Ajay Rastogi, J

Bench : Division Bench

Advocate : Shiv Kumar and Mr. Narendra Mewara Advs, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. Instant petition is directed against order of Central Administrative Tribunal ("Tribunal") dt. 25.04.2012.

2. The relevant facts which culled out from the record & order of the Tribunal impugned in the instant proceedings are that the petitioners jointly filed application before the Tribunal who were initially inducted in the Railway Establishment as Khalasi in May, 1978 and after temporary status being granted, promotion was accorded to the petitioners on the post of Fitter and had participated in the suitability test held in July, 1996 and after having been qualified in the written examination their names did find place in the list of successful candidates and after being interviewed they were finally declared successful in the final test and according to placement of their names in the final select list they were given promotion on the post of Train Ticket Examiner ("TTE") in the year 1997. However, either of them didn't raise voice against placement of their names in the seniority list published by the Railway establishment and after more than a decade there was some correspondence took place with the Railway Establishment, that was taken to be the basis for initiating cause of action for filing OA before the Tribunal and one of the contentions advanced before the

Tribunal was that the delay in no manner could be attributable to the petitioners and once this fact brought to their notice by the Railway Establishment in unequivocal terms about their final placement in the seniority list in the cadre of TTE that being the cause of action the petitioners approached to the Tribunal by filing of Original Application within limitation and the delay in the facts of the instant case could not be attributable to the petitioners and according to the counsel the tribunal failed to appreciate regarding the delay caused in right earnest and at least they could not deprive them from their legitimate right of fair consideration & placement in the seniority list to which they are otherwise entitled for under the law and it was further case of the petitioners that similarly situated persons who had participated in the same process seniority was assigned to them and that being discriminatory apart from delay is in violation of Art. 14 & 16 of the Constitution.

3. However, the Tribunal after taking into consideration the material which came on record at the stage when the matter came up for consideration to condone the delay on application filed by the petitioners was of the considered view that the delay was unexplainable and indisputably attributable to the petitioners and once the seniority was assigned to each of them in the cadre of TTE from the date of their qualifying the test at least they could not claim at such a belated stage for review of seniority and obviously after third party rights being created during the intervening period for more than a decade would be unjust & improper and the Tribunal was not inclined to interfere & examine the dispute on merits.

4. We have considered the submissions made by counsel for petitioner at length and after going through order of the Tribunal do not find any error which may require interference by this Court under its limited scope of judicial review u/Art. 227 of the Constitution.

5. Consequently, the petition being devoid of merit accordingly dismissed.