

A. Sagayanathan and others

Vs

Divisional Personal Officer, S.B.C. Division, Southern Railway, Bangalore

Civil Appeal Nos. 4997-5002 of 1990

(Arising out of S.L.P. (C) Nos. 13622-27 of 1991)

(Dr. T. K. Thommen, K. N. Saikia, N. M. asliwal JJ)

26-10-1990

JUDGEMENT

1. Special leave granted.

2. The complaint of the appellants is that they are still not promoted to the higher post although their juniors had been promoted as early as May, 1983. Promotion to the higher post is governed by the rule of seniority. The appellants had not been considered for promotion.

3. The Tribunal found that the appellants were too late in agitating their grievance. It was solely on the basis of delay that the Tribunal did not enter on the merits of the appellants complaint.

4. It is not disputed that the juniors of the appellants had been promoted. However, respondent's counsel submits that the juniors were promoted for justifiable reasons. Whatever may be the reason which prompted the respondent to promote the juniors in preference to the appellants, the fact is that the appellants had a genuine grievance in so far as they had been superseded by their juniors. This was precisely the dispute which the Tribunal ought to have considered, but unfortunately it did not do so by reason of the delay.

5. Having heard counsel on both sides and perused the records, we are of the view that, despite the delay, this is a matter which requires investigation.

6. Accordingly, we direct the Tribunal to rehear the parties after giving them an opportunity to implead the necessary parties, file fresh affidavits and adduce any other evidence which they may wish to adduce. The Tribunal shall dispose of the matter on the merits as urgently as possible. The appeals are accordingly allowed. No costs.

Appeals allowed.

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