

CENTRAL ADMINISTRATIVE TRIBUNAL
(PRINCIPAL BENCH)
New Delhi

OA/TA No. 3297 OF 01

Roop Kishan v/s V.O.I.

PART - I PERMANENT RECORD

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Prepared by:	Checked by:
Signature & Date :	Signature & Date :
Name :	Name :
Designation :	Designation :

Item No.4

O.A. No.3297/2001

13th December 2001

Present : Shri D. Vidyanandam, learned counsel for the applicant

Heard Shri, D.Vidyanandam, learned counsel for the applicant.

Issue notice to the respondents to file reply within four weeks' time. Thereafter two weeks' time is granted to the applicant to file his rejoinder, if any. List before JR for completion of pleadings on 7.2.2002.

M. P. Singh
(M.P. SINGH)
Member (A)

/ravi/

Notice issued on 2/1/2001
R1, 2, 4 & R5 - served
R3 - served - not filed
R6 - filed by
B.M. A. & R.L. Sharma Adv. for respondents.

11.

OA 3297/2001

07.02.2002

Present : Shri D. Vidyanandam, counsel for applicant.

Shri R.C. Malhotra, proxy counsel for Shri
R.L. Dhawan, counsel for respondents.

Heard counsel for both sides.

Counter reply be filed by 25.02.2002 and then
rejoinder within two weeks thereafter.

List before Registrar court for completion of
pleadings on 14.03.2002.


(A.K. SAHOO)
DY. REGISTRAR

"rach"

*Counter reply filed
S.B. Cm*

26

OA. No. 3297/2001

14.3.2002

Present: Sh. D.Vidanandan Counsel for the
Applicant.

Sh. R.L. Dhawan Counsel for the
Respondents.

Learned counsel for the respondents submits that counter reply is ready and it shall be filed during the course of the day and thereafter applicant may file rejoinder within two weeks. Place the matter before court on 5.4.2002.



(A.K.SAHOO)
Deputy Registrar

mk

Item No. 45 4

5.4.2002

OA No. 3297/01
MA No.

Present: Plaion Sh. R.C. Malhotra counsel for applicant/s
counsel for respondents

Adjourned to 10/5.

V.K. Majotra
(V.K. Majotra)
Member (A)

Not Admit
P. complete

16/ Item-37

13.5.2002

0A-3297/2001

Present: Sh. D.Vidyanandam,
counsel for applicant.

At the request of counsel for applicant let the
matter remain on board.

kr

(KULDIP SINGH)
Member (J)

"sd"

Item-16

14.5.2002

OA-3297/2001

Present: Sh. D.Vidyanandam,
counsel for applicant.

Sh. R.C.Malhotra proxy for
Sh. R.L.Dhawan,
counsel for respondents.

Pleadings in this case are complete. List for PFH on
18.7.2002.

for
(KULDIP SINGH)
Member (J)

sd

Noted with thanks.

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19-7-2002

2

OA - 3297/2001

Present: Sri D. Vidyayanandam, Ad. Counsel
for applicant

Sri R. K. Sarkar, Ad. proxy
counsel for Sh. R. L. Dhanwan,
for the respondents.

It is stated that there is
a bereavement in the family of
Sh. Dhanwan, adjourned to 7-8-2002
for P.F.H.

7-8-2002

b
(V. K. Majotia)
M(A)

Present: Sh. D. Vidyayanandam, Ad. Counsel for the applicant
Sh. R. L. Dhanwan, Ad. " " " ~~apply~~ (complete).

Both are heard, Order Reserved, by a Smt
of Hon'ble Mr. Shankar Rayu. M(I)

Bo

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Selv

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.3297/2001

Hon'ble Shri Shanker Raju, Member(J)

Friday, the 9th day of August, 2002

Roop Kishore
s/o Sh. Shyam Babu
c/o Sh. Satish Chander Bhardwaj
r/o RZ 134/60 A
Gali No.13, East Sagarpur
Delhi. Applicant

(By Advocate: Shri D.Vidyanandam)

Vs.

1. The Secretary
Ministry of Railways
Government of India
Rail Bhawan
New Delhi.
2. Chairman
Rail Board
Rail Bhawan
New Delhi.
3. The General Manager
Central Railways
Mumbai.
4. The Way Inspector
Central Railways
Konsi Kalan.
5. Zonal Railway Manager
(Personnel Recruitment Section)
Central Railways
Jhansi. Respondents

(By Advocate: Shri R.L.Dhawan)

O R D E R

By Mr. Shanker Raju, M(J):

Through this OA, applicant seeks his reinstatement with continuity of service, back wages as well as compensation and cost.

2. Applicant had worked on casual basis as Khalasi from 19.3.1983 to 18.7.1983 at Mathura Junction and was issued a service card. The services of the applicant have been discontinued, he preferred

a representation on 1.1.2000 and has filed the present OA when no reply has been received from the respondents.

3. Learned counsel, Shri D. Vidyanandam, appearing on behalf of applicant, contended that in view of the decision of the Tribunal in OA 1370/93 (Het Ram and Ors. v. The General Manager) as well as the decision of the Allahabad Bench of this Tribunal in OA 41/90 (Kalyan Rai v. Union of India & Ors.) where a similar claim was also allowed, it was incumbent upon the respondents to have extended the benefit of the decision to him, rather making them to approach to the Court.

4. It is further stated that on completion of 120 days of service, applicant was entitled for temporary status with consequential benefits and as per Para 2005 of Indian Railway Establishment Manual, Vol. II (in short as "IREM"), he is entitled for a notice before terminating of his service.. As the respondents have not followed the proper procedure, he is deemed to have continued and is liable to be reinstated in service with all consequential benefits.

5. On the point of limitation, Shri Vidyanandam has placed reliance on the following decisions to contend that as the appeal is not provided under the rules for such termination, Section 21 would have no application and as the wrong is continuing one, he is entitled for reinstatement:

W

a) Ajay Singh v. Sirhind Cooperative Marketing Society, 1999(2) Scale 508.

b) Ordnance Factory Workers Union v. Secretary, Ministry of Defence, 1990(12) ATC 296.

c) Karnataka State Private College Stopgap Lecturers Association v. State of Karnataka & Ors., 1992(2) SCC 29.

d) Andhra University v. M.Sivaram, 1994(3) SCC (Supp.) 750.

e) Council of Scientific and Industrial Research v. Vishwanatham, (1994) 27 ATC (SC) 148.

f) Daily Rated Casual Labour v. Union of India, 1988(1) SCC 122.

g) H.S.Grewal Major v. Union of India, 1999(1) SLR 158.

6. Moreover, Shri Vidyanandam contended that the decision in R.C.Samantha v. Union of India, 1993(4) SCC (Supl.) 67 would not be applicable as the issue was not decided under the Administrative Tribunals Act, 1985.

7. On the other hand, respondents' counsel, Shri R.L.Dhawan, placing reliance on the decision of the Full Bench of this Tribunal, which has been upheld by the High Court of Delhi, in **Mahavir v. Union of India & Others**, 2000(3) ATJ 1 contended that limitation prescribed Under Section 21 of the Administrative Tribunals Act, 1985 applies to a casual labour and the cause of action starts from the date of the disengagement of the applicant. By placing reliance on a decision of the Apex Court in **Ratan Chandra Sammanta & Ors. v. Union of India & Ors.**, JT 1993(3) SC 418 and **P.K.Ram Chandran v. State of Kerala**, JT 1997(8) SC 189, contended that delay deprives a person of the remedy available in law and a person who has lost his remedy by the lapse of time loses his right as well, and law of limitation may harshly affect a particular party but it has to be applied with its rigour when the statute so prescribed and the Courts have no power to extend the period of limitation on equitable grounds.

8. Shri Dhawan has also placed on record a decision of the Co-ordinate Bench in **Raj Kumar v. Union of India & Anr.**, OA 1661/2000, where on an identical claim was rejected on the ground of limitation. Moreover, on merits also, it is contended that applicant who had worked on daily wages in broken periods for 107 days, is not entitled for any re-engagement as per Para 179 (xiii)(c) of the IREM as the minimum stipulated period of 180 days was prescribed which has been subsequently, after 1993, amended to 120 days. As the applicant has not

11. Moreover, in view of the decisions of the Apex Court in Ratan Chandra Samantha and P.K.Ram Chandran (supra), there is an inordinate delay of about 18 years in approaching this Court for redressal of his grievance, the applicant has lost his remedy and as well as his right. Law of limitation may harshly affect a particular party but it has to be applied with its rigour, and this Court has no power to extend the period of limitation even on equitable grounds. I also agree with the Raj Kumar's case supra, where a similar case was dismissed being barred by limitation, delay and latches.

12. Moreover, on merits as well, the applicant had worked only for a period of 107 days, and as per Para 179 ibid the minimum required period was 180 days which the applicant had not completed, would not bestow him any right to claim for re-engagement.

13. In the result and having regard to the discussion made above, the OA is bereft of merit and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

/rao/

completed the stipulated period, apart from his OA suffers from delay and latches, the OA is not tenable on merits as well.

9. I have carefully considered the rival contentions of both the parties and perused the material on record. The case laws relied upon by the applicant are distinguishable and would not apply to the facts and circumstances of the present case. It is not disputed that applicant has last worked as Khallasi upto 18.7.1983 when allegedly he was discontinued, the cause of action had immediately arisen, the applicant had filed the representation only on 1.1.2000. In view of the decision of the Full Bench in **Mahavir (supra)**, the limitation prescribed under Section 21 ibid applies to a casual labour as well and as the cause of action had arisen in 1983, the OA filed in the year 2001, is beyond the prescribed period of limitation of one year, under Section 21 of the Act ibid. Moreover, in absence of any application for condonation of delay, in view of the decision of the Apex Court in **Hukam Raj Khinvsara v. Union of India**, (1997) 4 SCC 284, question of limitation and its condonation cannot be gone into.

10. Moreover, no reasonable explanation has been tendered by the applicant. His resort to the fact that the similar petitions have been allowed in 1994 would not bestow him any cause of action, and extend the period of limitation, in view of the **Bhoop Singh v. Union of India & Ors.**, JT 1992(3) SC 322.