

IN THE CENTRAL ADMINISTRATIVE TRIBNAL

NEW DELHI

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O.A. No. 1689/99
~~TAxxNo.~~

DATE OF DECISION 31-8-2000

Shri Chaman Lal Petitioner(s)
Shri Ganishwar Proxy for Shri U. Srivastava Advocate for the
Petitioner(s)


Versus

Union of India Respondents
Shri B.S. Jain Advocate for the
Respondent(s)

CORAM:

Hon'ble Dr. A. Vedavalli, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?


(Dr.A. Vedavalli)
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1689/99

New Delhi this the 31st Day of August, 2000

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Chaman Lal
S/o Shri Jodharam
R/o Mahabir Enclave (C-3/3A) Pt-I,
DDA Park, New Delhi-110 045. Applicant

(By Advocate: Shri Ganishwar Proxy for
Shri U. Srivastava)

Vs.

1. Union of India, though
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Delhi Division, Northern railway,
State Entry Road, New Delhi
3. The Permanent Way Inspector (PWI),
Northern Railway, Delhi Division,
Delhi.
4. The Permanent Way Inspector (PWI),
Northern Railway, Shakur Basti,
Delhi. Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

The applicant, Chaman Lal, claims that he worked as a Casual Labourer in Northern Railway under the Respondents for a total number of 241 days in different spells during the years 1984 and 1985 and was disengaged in August 1985 on account of completion of work. His grievance is that the Respondents allegedly are not re engaging him in spite of several representations submitted by him while his juniors are being engaged. He states that he has come to know

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that the Respondents have placed his name in the live Casual Labour Register and that he has not received any reply to his representation,.

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2. He is seeking in this OA a direction to the Respondents to re engage him.

3. The OA is contested by the Respondents who have filed their counter to which a rejoinder has been filed by the applicant.

4. I have heard the learned counsel for both the parties. Perused the pleadings and the material papers and documents placed on record.

5. When the matter was taken up for hearing, learned counsel for the Respondents, Shri B.S. Jain, raised the preliminary objection as to the maintainability of the OA on the ground of limitation. He submitted that the applicant has not produced any casual labour card showing the details as required under the relevant circulars including inter alia, his name, Date of Birth, Qualifications, date of engagement, date of retrenchment, reasons for retrenchment, his signatures, signatures of the supervisor under whom he worked etc. The copies of the certificates which were produced by the applicant regarding his working as a casual labourer from April 1984 to October 1984 (Annexure A-1) and from March 1985 to August 1985 in short spells do not give the required details and the certificates also cannot be verified after a lapse of about 15 years after the

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alleged disengagement! If the applicant had actually worked for a total of 241 days in two years as alleged by him and his name had been included in the live casual labour register, he ought to have produced his casual labour card showing the required details. He has failed to produce any proof of his name being entered in the said register. Learned counsel for the Respondents has also referred to the averments of the Respondents in their counter vide paras 4.6. and 4.10 (parawise reply) wherein it has been stated that the representations submitted dated 28.6.1988, 5.8.1992, 11.6.1999 and 30.6.1999 (Annexure A-3 and A-4) collly.) have not been received by them. He contended that the alleged cause of action had arisen in August, 1985, and the applicant had neither approached the concerned administrative authorities nor a court of law for redressal of his grievance and the OA is therefore time barred under Section 21 of the Administrative Tribunal Act, 1985. He has also submitted that even assuming that the alleged representations were submitted, the first representation was submitted only on 28.6.1998 i.e. after the expiry of limitation period prescribed under the aforesaid Act and repeated representations do not extend the said period. He further submitted that no application for condonation of delay was filed by the applicant. He prayed that in the above facts and circumstances, the OA can be dismissed on the ground of limitation itself. He relied upon an order of this Tribunal dated 10.5.2000 by a Full Bench in OA 706/1996 Mahabir Vs. Union of India and Ors. connected matters in support of his arguments.

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6. Learned counsel for the Respondents have stated that he is not pressing the other preliminary objections raised in the counter as to the engagement of the applicant being void ab initio etc.

7. In reply, the learned counsel for the applicant, Shri U. Srivastava, submitted that representations were handed over to the Respondents by the applicant and were duly received by the Respondents as seen from Annexure A-3 and A-4 colly, and show the stamp of receipt also and cannot be denied by the Respondents. The said representations are still pending with the Respondents and have not yet been disposed of. He contended that in view of the above facts and circumstances and the provisions of the circular dated 28.8.1997, the OA is not time barred and the objections raised by the Respondents on the ground of limitation is not sustainable and deserved to be overruled.

8. I have given my careful consideration to this matter.

9. According to the statement made by the applicant himself, he was disengaged in August 1985 by the Respondents on account of completion of work. While so, the first representation claimed to have been submitted by him to the Respondents is dated 28.6.1988 (Annexure A-3). The subsequent representations are dated 5.8.1992, 11.6.1999 and 30.6.1999 (Annexure A-4 colly). The applicant has not

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been able to prove that his first representation dated 28.6.1988 (Annexure A-3) and second representation dated 5.8.1992 (Annexure A-4 colly) have been duly received by the Respondents and hence his claim as to the submission of the said representations is not tenable. However, the subsequent representations dated 11.6.1999 and 30.6.1999 (Annexure A-4 colly), it is seen, bear stamp by the Respondents. Though the receipt of all the representations aforesaid have been denied by the Respondents in their counter, there is no averment therein as to the denial of the genuineness of the said receipt stamps. Therefore, the Respondents' contention as to the non-receipt of the representations cannot be accepted so far as the last two representations dated 11.6.1999 and 30.6.1999 (Annexure A-3 and A-4 colly) are concerned. In the circumstances, the representation dated 11.6.1999 alone can be treated as the first representation submitted by the applicant to the Respondents regarding his grievance.

10. It is seen from the said representation dated 11.6.1999 (Annexure A-4 colly) that there is no prayer for inclusion of his name in the live casual labour register. On the other hand, he had stated ^{that} his name appears in the said Register and requested the Respondents to pass orders to absorb him as Class IV staff against the vacancies in the Division mentioned therein. He has also stated in the said representation, inter alia, that he belongs to a very poor family of SC category and is not working anywhere.

and he was waiting for the railway job. The subsequent representation dated 30.6.1999 (Annexure A-4 Colly.) is only a reminder. (21)

11. The applicant has not made any averments in the OA as to why he has not approached the Respondents till 11.6.1999 for re engagement/absorption etc. if he is very poor and has not been working elsewhere as claimed by him. There is no explanation as to why he has not taken necessary steps to move this Tribunal for redressal of his grievance or enforcement of a legal right, if any, within the time prescribed under Section 21 of the Administrative Tribunal Act, 1985 as he claims that he was disengaged in August 1985. The present OA has been filed only on 3.8.1999 i.e. after a lapse of almost 14 years after the alleged disengagement. The applicant has not even bothered to file any application for condonation of delay in filing this OA.

12. The contention of the applicant that the OA is not time barred in view of para 11 read with para 9 of the Respondent's circular dated 28.8.1987 (Annexure A-6) also will not help him since he has not spelt out clearly and specifically as to how the said contention can be sustained.

13. In the facts and circumstances of this OA as discussed above and in view of the law laid down by the Apex Court in several cases including the decisions in (1) Bhoop Singh Vs. Union of India and Ors., 1992 (2) AISLJ (SC) 103; (2) Ratam Chandra

By

Samanta and Ors. Vs. Union of India and Ors. JT
1993 (3) SC 418, Secretary to Govt. of India and Ors.
Vs. Shivram Mahadu Gakewad, 1995 (Suppl. 3) SCC 231
and Ramesh Chandra Sharma Vs. Uddam Singh Kamal and
Ors. 2000 (1) ATJ SC 178, I am of the considered
opinion that the present OA is hopelessly time barred
under Section 21 of the Administrative Tribunal Act,
1985.

14. In the result, the OA is dismissed. No
costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

Mittal