

Central Administrative Tribunal  
Principal Bench: New Delhi

O.A. No. 2187/99

New Delhi this the 5th day of November 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)  
Hon'ble Mrs. Shanta Shastri, Member (A)

Shri Sudhir Kumar Verma,  
S/o Shri Ram Krishan Verma,  
House No. III-F,  
186. Nehru Nagar,  
Ghaziabad (U.P.)

....Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through:

1. The Secretary,  
Ministry of Railways,  
(Railway Board), Rail Bhawan,  
Raisina Road,  
New Delhi-1.
2. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
3. The Chief Executive Manager,  
Rail Yatri Niwas,  
Railway Station,  
New Delhi.

...Respondents

ORDER (Oral)

By Reddy, J.-

Heard the counsel for the applicant.

2. The grievance of the applicant is that he was not paid salary and allowances in the grade of Rs. 1400-2300, which was the grade relevant to the post of Assistant Supervisor (Front Office) in the Rail Yatri Niwas. It is his case that though he was appointed as Utility Worker cum Safaiwala in the grade of Rs. 750-940 during 1989, his services were utilized in 1991 as

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Assistant Supervisor (Front Office) which was the post in the grade of Rs. 1400-2300. He, 5 therefore, claims the salary admissible for the post of Assistant Supervisor (Front Office) Grade 'D' post, for the period from January 1992 to August 1995 and from January 1997 to January, 1998 including interest of 18% P.A. The applicant was in fact seeking for regularisation in the post of Assistant Supervisor and for that relief he also filed OA-1353/91, which was, however, dismissed by a judgment dated 8.6.95.

3. Learned counsel for applicant relies upon the letter dated 9.8.95 given by the Chief Manager, Northern Railway. This letter only says that applicant, though appointed as U.T Cum Safaiwala, was put to work for sometime as Asstt. Supervisor (F.O.) in view of the paucity of staff during that time. It, on the other hand states that no record is available in this regard. Hence the case of the applicant for this period is wholly unsubstantiated. No period of his work was shown in this letter. Moreover, the claim for the difference of pay is also barred by limitation.

4. Regarding the claim of the applicant for the difference of pay from January 1997 to January 1998, there is nothing on record to show that the applicant has been working during that period.

CAB

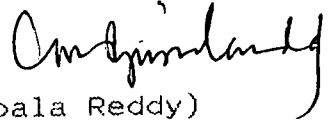
5. It is argued that in a similar matter, the Tribunal in OA No. 1353/91 dated 8.6.95 allowed a claim for the pay during the period of work in a higher post. Learned counsel for the applicant relies upon SLJ 1998 (1)SC 54 K.C. Sharma & Ors. Vs. U.O.I. & Ors. where the Supreme Court, on the merits of that case, held that the dismissal of the application on the ground of limitation, was inappropriate as similar relief was granted by another Bench of the Tribunal on an identical matter. The Supreme Court directed this Tribunal to consider that case on merits. In the judgment it was stated clearly that that view was taken by the Supreme Court having regard to the facts and circumstances of the said case. The court, thus held that the said case was a fit case in which the Tribunal should have condoned the delay. In the present case not even an application is filed for condonation of delay. The judgment relied on was delivered in 1995 and no reason was given for the delay of 4 years. The above judgment of Supreme Court did not consider Section-21 of the Limitation Act. It should be noted that we are dismissing the OA not on the ground of limitation but also on the ground that the applicant had not substantiated his claim. In the circumstances, the case of the Supreme Court cited supra is wholly in-applicable to the facts of the case.

6. In ATR 1989 (1) 233 Union of India & Anr. Vs. Karam Chand Gauba, it was held that the court should adopt a liberal approach in the



matter of condonation of delay. In the present case it has to be seen that the applicant's claim arises during the period from 1992 to 1995. The judgment which is now being relied upon is the judgement OA-1353/91 dated 8.6.95. No reasons have been given for not approaching this court. Even taking a liberal approach in the absence of any reasonable explanation for the delay of 4 years, the OA is liable to be dismissed. In P.K. Ramchandran Vs. State of Kerala & Anr. JT 1997 (8) SC 189, it has been clearly held that though limitation works out hardship to the applicants, the court should uphold the law of limitation. The OA is, therefore, fails and dismissed at the admission stage, on merits as well as on limitation.

  
(Mrs. Shanta Shastry)  
Member (A)

  
(V. Rajagopala Reddy)  
Vice-Chairman (J)

cc.