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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.795/99
MA No.765/99

New Delhi this the 6th day of February, 2001.

HON'BLE MR. SHANKAR RAJU, MEMBER (JUDICIAL)

Raghuvir Prasad Gupta,
S/o Shri. Viya Prasad Gupta,
R/o C/o SH. Satischandra Gupta
at Naya Bazar,
Delhi.

...Applicant

(By Advocate - none)

-Versus-

1. The Secretary,
Ministry of Railways,
Rail Bhavan,
New Delhi.

2. The General Manager,
Western Railway,
Church Gate,
Bombay.

3. The Divisional Rail Manager,
Westernn Railway,
Kota (Rajasthan).

...Respondents

(By Advocate Mrs. Meera Chhibber)

O R D E R

By Mr. Shankar Raju, Member (J):

The right of filing of the counter was forfeited vide an order dated 2.12.99. As the counter could not be filed by 3.1.2000, Mrs. Meera Chhibber, the learned counsel of the respondents orally adduced her arguments in support of the case of the respondents. I proceed to dispose of the present OA in view of Rule 15 of C.A.T. (Procedure) Rules, 1987.

2. The applicant in this OA seeks the benefit of the judgment of the Tribunal in OA-851/99 decided on 7.2.99 and further claim that he may be re-engaged as Voluntary Ticket Collector on the same terms and conditions as given to him at the time of earlier engagement and further

consider him for regularisation, subject to fulfilling necessary qualifications and minimum requirements in accordance with inter-se-seniority between the applicant in accordance with rules and instructions of the Railway Board in this regard.

3. The applicant had worked as a Volunatry Ticket Collector from 1.12.84 to 31.3.85 for a total period of 141 days and has been paid at the rate of Rs.8/- per day. According to the applicant his work was satisfactory. The said claim of engaging Volunatry Ticket Collector was withdrawn in March, 1985 and thereafter the applicant was dis-engaged from service. According to the applicant as similary situated persons have been granted the same relief in view of the judgement of the Tribunal in Raj Kumar and Others v. Union of India & Others, and further relied upon in order dated 7.2.97 (supra) the applicant being similarly situated is also legally entitled for the relied prayed for in this OA. I also find that the applicant has filed MA-765/99 under Section 21 of the Administrative Tribunals Act, 1985 for condonation of delay in filing the present application by contending that the Tribunal has given a judgment on 7.2.97 and the applicant is also entitled for the same relief and prayed for condonation of delay of about 12 years in filing the present OA.

4. The learned counsel of the respondents Mrs. Meera Chhibber contested this application on the ground of inordinate delay and laches in filing the present application. The learned counsel of the respondents further contended that in view of the judgement of Full Bench of this Tribunal dated 10.5.2000 in OA-706/96, Mahabir v.

Union of India and connected matters it has been laid down that limitation under Section 21 of the Administrative Tribunals Act, 1985 would apply even to the case of casual workers. Further, it has been contended that as merely the applicant does not approach the Tribunal immediately after his dis-engagement as unlikely the similarly situated persons with whom the applicant is claiming parity and benefit of their judgement, his claim is hit by the doctrine of laches and the ground for condonation of delay are not relevant and justified. For this, the learned counsel relied upon the ratio of the Apex Court in Bhoop Singh v. Union of India & Others, 1992 (3) SCC 136.

4. I have carefully gone through the contentions raised by the applicant in his OA and MA for condonation of delay as well as the oral submissions made by the learned counsel of the respondents. Admittedly, in the instant case the applicant has challenged his discharge due to withdrawal of the claim pertaining to engagement of Voluntary Ticket Collector in March, 1985 and has sought his engagement as a Voluntary Ticket Collector and further grant of temporary status and regularisation on the basis of a judgement of the Tribunal given in 1992 and relied upon in the judgement dated 7.2.97 (supra). The Full Bench of this Tribunal (supra) while dealing with the issue of limitation applicable to casual labourers, observed as follows:

"12. Casual labourers who are parties in the present applications fall in two categories - one whose services have been discharged, and secondly those who have either abandoned their employment or have not accepted the offer of employment when made. The latter, therefore, would also fall under the category of those who have abandoned their services. As far as the former category of casual labourers are

concerned, aforesaid circular provides them protection by conferring upon them the right of being offered employment by being placed on the live casual labour register. As far as the latter category of casual labourers are concerned, aforesaid right has not been bestowed upon them. On the contrary, they have been deprived of the aforesaid benefit under the terms of the circular itself. As far as first category of the labourers is concerned, namely, whose services have been discharged, a right accrues in their favour, a right of being placed on the register. This right accrues in their favour the moment their services are discharged. In the circumstances, we are of the considered view that provisions contained in Section 21 of the Administrative Tribunals Act, 1985 prescribing the period of limitation will be applicable to the applications filed seeking benefit of the aforesaid circular."

5. The reference was decided in the affirmative by holding that limitation contained in Section 21 of the Administrative Tribunals Act, 1985 would apply even to a casual labourer and would not give rise to a continuous cause of action. In view of the ratio laid down by the Full Bench, which is binding on me, the claim of the applicant is hopelessly barred by limitation under Section 21 of the Administrative Tribunals Act and is not legally entitled to get the same.

6. Apart from this the applicant has been claiming the benefit of a judgment dated 7.2.97. In my view immediately on his discharge the applicant has not filed any OA for his engagement and regularisation before the Tribunal, the relief cannot stand where the claimant himself is indolent unlike his co-employees and as such cannot be classified with the co-employees since non-discrimination under Article 14 is based on equitable principle. Inordinate and unexplained delay is itself a ground to refuse the relief. The relief claimed must also be founded on equity and the classification based on laches is

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legally tenable. In this view of my, I am fortified by the ratio laid down by the Apex Court in Bhoop Singh's case (supra) as well as Ratam Chandra Sammanta & Ors v. The Union of India & Others, JT 1993 (3) SC 418 where it has been held that the "delay deprives the person of the remedy available in law. A person who has lost his remedy by lapse of time loses his right as well". I have gone through the grounds taken by the applicant in support of his MA for condonation of delay. I find that except placing reliance upon the judgement of the Tribunal dated 7.2.97 (supra) nothing more has been added to justify the inordinate and unexplained delay. I am of the considered opinion that the grounds taken by the applicant are not justified and reasonable and as such MA-765/99^{he} is rejected as without any merit.

7. In the result, I hold that the relief claimed by the applicant is hopelessly barred by delay and laches. The O.A. is dismissed, as time barred. No costs.

S. Raju
(Shanker Raju)
Member (J)

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