

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2448/1998
MA 57/1999

(20)

New Delhi, this the 1st day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tamai, Member (A)

Shri Munni Lal
S/o Shri Rangi Ram
Working as Luggage Porter,
New Delhi Railway Station
R/o V&PO Julani Distt. Jind
Haryana.

...Applicant.

(None present)

V E R S U S

Union of India : Through

1. Chairman
Railway Board
New Delhi.
2. Divisional Railway Manager
Northern Railway
Baroda House, New Delhi.
3. Divisional Personnel Officer,
DRM Office,
Northern Railway
New Delhi.

...Respondents.

(By Advocate : Shri R.L.Dhawan)

O R D E R (ORAL)

Smt. Lakshmi Swaminathan, Vice-Chairman (J)

None for the applicant even on the second call. We note that earlier also none has appeared for the applicant even on the second call on 13-2-2001. The OA has been filed as far back as 3-12-98 and was already admitted. It has been listed for final hearing today. In the circumstances, the application could have been rejected on the ground of default and non-prosecution.

2. However, as the case has been listed on serial no. 3-3, we have carefully perused the documents on record and heard Shri R.L.Dhawan, learned

18

counsel on the merits of the case as well as on MA 57/99 filed by the applicant praying for condonation of delay. (21)

3. The applicant has impugned the order passed by the respondents dated 14-10-1991 in which ~~they have~~ stated that "On resumption of selected permanent booking clerk at PPDE, the applicant who was working locally in that post on purely ad hoc basis as Booking Clerk was posted back to his substantive post of Luggage Porter (for short LP) against an existing vacancy in that post". Initially the applicant had filed an earlier OA 1202/91, which was disposed of by the Tribunal's order dated 25-9-98. Thereafter the applicant has filed the present application and later on MA 57/99 praying for condonation of delay. The relevant portion of the Miscellaneous Application refers to the following reasons for condonation of delay :-

"The applicant was totally unaware of the fact that he was required to file a transfer Petition. In fact until he received a notice from the Registry of this Hon'ble Tribunal in 1997, he was under the impression that the matter had been admitted and would be finally heard later on. The applicant respectfully submits that he had no conscious knowledge of this Hon'ble Tribunal's order and as such the delay caused in pursuing the case between 1991 and 1997 was only because of lack of information on the correct facts relating to the case. The Applicant deeply regrets the inconvenience caused to this Hon'ble Tribunal and seeks indulgence of this Hon'ble Tribunal for condonation of delay in pursuing the matter.

The above reasons can hardly be considered as sufficient reasons for condoning the delay in the present case because all that the applicant states is that he was not conscious of the provisions of law governing filing of the applications in the Central

Administrative Tribunal, and he became aware of the provisions only when he received the notice from the Registry of the Tribunal in 1997. Therefore, in the facts and circumstances disclosed by the applicant in MA 57/99, the prayer for condonation of delay in pursuing the matter of challenge to the order passed by the respondents as far back as 14-10-91 cannot be accepted under the provisions of the Section 21 (3) of the Administrative Tribunal's Act, 1985. MA 57/99 is accordingly dismissed.

(2)

4. Apart from the preliminary objection which has also been taken by the respondents regarding delay in the matter, we also find no merit in this application. In the impugned order dated 14-10-91, the respondents have clearly stated that on resumption of selected permanent booking clerk at PPDE, the applicant who was locally working purely on ad hoc basis in that post was reverted to his substantive post of LP against an existing vacancy in that post. The applicant does not have a legal right to continue in the higher post on ad hoc basis, particularly when a duly selected candidate is available for posting in the higher post of Booking Clerk. Therefore, on this ground also the application is liable to be dismissed.

5. In the result, for the reasons given above, both on the grounds of limitation and merit, OA fails and is dismissed. No order as to costs.

(Govindan S. Tampi)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/vikas/