

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A No. 688/1998
T.A No.

Date of Decision 13-2-2001

Mohd Layeeq and Ors

..Petitioner

Sh.B.S. Mainee

..Advocate for the Petitioner(s)

Versus

VOI & Ors

..Respondent

Sh.P.S. Mahendru

..Advocate for the Respondents

Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

Hon'ble Shri Govindan S.Tampi, Member(A)

1. To be referred to the Reporter or not? Yes

2. Whether it needs to be circulated to other Benches of the Tribunal? No

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

O.A. 688/98

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New Delhi this the 13 th day of February, 2001

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

1. Mohd. Layeeq,
S/o Shri Mohd. Zamil,
2. Abdul Khalil,
S/o Shri Abdul Ghafoor,
3. Rajinder Singh,
S/o Shri Bhagwan Singh,
4. Satyendra Singh,
S/o Shri Narender Singh,
5. Kanhaya Lal,
S/o Shri Chiranji Lal Verma

(All working under Stn. Supdt.,
Western Railway, Kota).

... Applicants.

(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.
2. The General Manager,
Western Railway,
Churchgate, Bombay.
3. The Divisional Rly. Manager,
Western Railway,
Kota.

... Respondents.

(By Advocate Shri P.S. Mahendru)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

This application has been filed by five applicants praying for a direction to the respondents to re-engage them as Voluntary Ticket Collectors (VTCs) and grant them consequential benefits, like temporary status

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after they complete 120 days of continuous service. They have submitted that as they are similarly situated persons, further directions may be given to the respondents to give them the benefit of the judgement of the Hon'ble Supreme Court in Union of India and Ors. Vs. Belal Ahmed and Ors. with connected cases, decided on 27.7.1995 (Annexure A-7).

2. The applicants have filed MA 701/97 praying for condonation of delay. They have submitted that they had been engaged as VTCs in accordance with the Scheme issued by the Railway Board which was withdrawn prior to 17.11.1986. They have submitted that some of their colleagues who had worked as VTCs had filed two petitions before the Tribunal in the names of Belal Ahmed and Ors. Vs. Union of India & Ors. and Anand Kumar Jha & Ors. Vs. Union of India & Ors. which were allowed and the SLPs filed against the decisions were disposed of by the Hon'ble Supreme Court by its judgement dated 27.7.1995. Shri B.S. Mainee, learned counsel has submitted that in pursuance of the Supreme Court orders, the respondents had re-engaged the services of several Mobile Booking Clerks who had worked prior to 17.11.1986. He has, therefore, vehemently submitted that it was the bounden duty of the respondents to have re-engaged the applicants who are similarly situated, as model employers without expecting them to file their own applications. He has also relied on the order passed by the Tribunal in Pramod Kumar Sharma Vs. The Secretary, Ministry of Railways and Ors. (OA 1859/91 with connected cases), which was disposed of by Tribunal's order dated 7.2.1997. He has

submitted that this judgement of the Tribunal has also been implemented by the respondents by re-engaging those persons who are similarly situated like the applicants. He has submitted that the Tribunal's order dated 7.2.1997 also has the effect of extending the cause of action to the applicants, as similar benefits have not been given to them. An averment has also been made in the application for condonation of delay that the petitioners have not filed earlier applications because they had been assured by Respondent 3 that their cases will be considered after the decisions of the Supreme Court and the Tribunal in the aforesaid cases. This, according to him, had also led the applicants to wait, hoping that the respondents will on their own accord give them similar benefits without further litigation as they were also duty bound to do so. He has, relying on a number of judgements, submitted that the delay, if any, should be condoned (See for example, Rameshwar Prasad Sinha Vs. Union of India & Ors. (Civil Appeal No.354/93), decided on 28.1.1993, Dinesh Chand Yadav Vs. Union of India & Ors. (O.A.3053/91), decided on 9.7.1998 (copies placed on record). Shri Mainee, learned counsel has also submitted that the applicants had also made a number of representations to the respondents, for example, the one dated 20.3.1996 (Annexure A-9), in addition to oral representations and in spite of that, the reliefs have not been granted by the respondents which is most unfair and arbitrary. He has also relied on the Railway Board's instructions dated 6.2.1990 and 31.3.1991 directing the Zonal Railways to re-engage the services of Mobile Booking Clerks/Ticket Collectors. Taking into account these facts and circumstances of the case, learned

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counsel for the applicants has very vehemently submitted that the MA for condonation of delay may be allowed with a direction to the respondents to re-engage the applicants as VTCs and give them the benefit of the judgement of the Supreme Court in Belal Ahmed's case (supra).

3. The respondents in their reply have submitted that the O.A. is barred by limitation, ~~and~~ suffers from delay and laches and is liable to be dismissed on this account alone. Shri P.S. Mahendru, learned counsel has also submitted that the applicants are residents of Kota in the State of Rajasthan and were engaged as VTCs by the Station Superintendent, Western Railways, Kota, prior to 14.6.1985. This has also been confirmed in the averments made by the applicants themselves in the details given in the Memo of Parties, as to the period they have worked as VTCs with the Station Superintendent, Western Railway, Kota. Learned counsel has submitted that the applicants had approached the respondents for re-engagement and whatever representations they have ~~they have~~ stated they have made are very belated. He has referred to the copies of the representations annexed by the applicants which have been given in March, 1996 (Annexure A-9) which he has submitted itself shows are very belated. The respondents have also denied the averments made by the applicants regarding their oral representations from 1990. In any case, he has submitted that repeated representations will not have the effect of extending the cause of action. He has submitted that in the case of applicant No. 1, it is seen that he has worked for about six days as VTC and in

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the case of all the 5 applicants none of them have worked beyond 14.6.1985. As this application has been filed on 21.1.1998, he has submitted that the application is clearly barred by limitation. He has relied on the judgement of the Supreme Court in State of Karnataka and Ors. Vs. S.M. Kotrayya and Ors. (1996(6) SCC 267) and the Full Bench judgements of the Tribunal in Jacob Abraham and 12 Ors. Vs. Union of India & Ors. (1994(2) ATJ 300), which has relied on the judgement of the Supreme Court in Bhoop Singh Vs. Union of India & Ors. (AIR 1992 SC 1414) and Mahabir Vs. Union of India & Ors. (OA 706/96 with connected cases), decided on 10.5.2000 (copies placed on record). In the facts and circumstances, learned counsel has prayed that the O.A. is liable to be dismissed and no reliefs can be given to them at this stage.

4. We have also seen the rejoinder filed by the applicant and heard Shri B.S. Mainee, learned counsel further.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties, including the various judgements relied upon by them.

6. The applicants are seeking reliefs from the respondents in terms of the order passed by the Hon'ble Supreme Court in Belal Ahmed's case (supra). As mentioned by Shri P.S. Mahendru, learned counsel that if, as claimed by the applicants in the verification, they have changed their residents to New Delhi which has

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enabled them to file application in the Principal Bench, they had not even cared to inform the respondents of this position prior to their filing this application in the Principal Bench on 21.1.1998. The Tribunal's order dated 7.2.1997 relied upon by the applicants has been given in O.As which were filed in 1991 and in the circumstances of the case, the order in that case cannot have the effect of extending the period of limitation in the present case. From Annexure A-9, which are copies of the representations said to have been made by the applicants, it is seen that the same have been addressed to the DRM, Western Railway, Kota in March, 1996, and even these do not show any stamp or receipt by the respondents. The respondents have also not admitted that the applicants had been representing orally or in writing to them from 1990 or thereafter. From the documents placed on record, we are unable to agree with the contentions of the learned counsel for the applicants that they had even cared to make any representations to the respondents prior to 1996. In any case, it is settled law that repeated representations will not have the effect of extending the cause of action (See. S.S. Rathore Vs. State of M.P. (AIR 1990 SC 10)). It is also relevant to note that even after the judgement of the Apex Court in Belal Ahmed's case (supra) which is relied upon by the applicants, they have filed this application only in January, 1998. The Supreme Court in S.M. Kotrayya's case (supra), has referred to the Constitutional Bench in S.S. Rathore's case (supra) and held as follows:

"9. Thus considered, we hold that it is not necessary that the respondents should give an explanation for the delay which occasioned for the period mentioned in sub-sections (1) or (2)

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of Section 21, but they should give explanation for the delay which occasioned after the expiry of the aforesaid respective period applicable to the appropriate case and the Tribunal should be required to satisfy itself whether the explanation offered was that they came to know of the relief granted by the Tribunal in August, 1989 and that they filed the petition immediately thereafter. That is not a proper explanation at all. What was required of them to explain under sub-sections (1) and (2) was as to why they could not avail of the remedy of redressal of their grievances before the expiry of the period prescribed under sub-section (1) or (2). That was not the explanation given. Therefore, the Tribunal is wholly unjustified in condoning the delay".

7. Taking into account the facts and circumstances of the case, including the fact that none of the applicants were engaged by the respondents as VTCs after 14.6.1985, we are not satisfied with the explanation offered by them in terms of sub-section (3) of Section 21 of the Administrative Tribunals Act, 1985 to condone the delay. The intervening circumstances which they have relied upon for condonation of delay of nearly 13 years i.e the judgement of the Supreme Court in **Belal Ahmed's** case (supra) can hardly assist them, especially when that judgement has been given on 27.7.1995 and this O.A. has been filed on 21.1.1998. The contention of the learned counsel for applicants that the respondents as model employers ought to have looked for them and re-engaged them as VTCs when they implemented the Supreme Court order in **Belal Ahmed's** case (supra) in the case of others or the subsequent order dated 7.2.1997 in OA 1859/91 with connected cases, will not assist them as they themselves do not appear to have even cared to make a representation to the respondents for several years. They do not appear to have taken any steps even by way of a written representation to the respondents till at least 1990 and this delay has not at

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all been explained excepting that shows that they were not interested in getting the employment with the respondents after 1985. In the facts and circumstances of the present case, the judgements relied upon by Shri B.S. Mainee, learned counsel are distinguishable. As held by the Supreme Court in another case delay deprives the person of the remedy available in law (See. R.C. Samanta Vs. Union of India & Ors. (JT 1993(3)SC 418).

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8. In the result, for the reasons given above, we find that this application is hopelessly barred by limitation, suffers from laches and delay and there is no sufficient cause made out by them to condone the inordinate delay. In the circumstances, no such directions as prayed for by them can be given to the respondents to re-engage them in service as VTCs with further benefits of temporary status and so on as claimed by them. The application also fails on merits. The O.A. is accordingly dismissed. No order as to costs.

(Govindan S. Tampi)
Member (A)

'SRD'

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