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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A.No.325/95

New Delhi, this the 25th day of April, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri S.R. Adige, Member(A)

Shri Surender Singh,
s/o Swaroop Singh
Vill: Bagarpur,
P.O. Bagarpur,
Distt: Bijnore(U.P.)

C/o Badlu Ram,
Compounder
Leprosy Home, Thairpur,
Shahdara, Delhi. Applicant

By Advocate: Shri S.P. Singha

Vs.

Union of India,
through

1. The Secretary,
Ministry of Railways,
Railway Board, Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railway,
Baroda House, New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Moradabad Divn.,
Moradabad(U.P.)
4. The Permanent Way Inspector,
Northern Railway, Bijnor(U.P.) ... Respondents

By Advocate: None

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member(J)

The applicant has alleged himself to have been engaged as a Casual Labour in the Railways for 174 days in the year 1983 and for 269 days in the year 1984. In support of this, the applicant

has filed an Annexure A-1. On the basis of this it is averred in the original application that the applicant having been disengaged has not been offered an engagement.

We have given a detailed order while hearing Shri S.N. Gupta, counsel for applicant on the last occasion on 16.2.95 and desired that this application be supplemented by filing certain documents to show that the name of the applicant finds place in the Live Casual Register and that the name of any such casual labour who was engaged subsequent to the applicant has been re-engaged by the Railways ignoring the seniority of the applicant.

The learned counsel for the applicant sought an adjournment on 27.3.95 when the matter has been listed for today. Today we heard the learned counsel Shri S.P. Singha at considerable length and perused the earlier order dated 16.2.95 as well as the various averments made in this application. We have also gone through the Misc. Application No.414/95 for condonation of delay which is supported by an affidavit of the petitioner.

Firstly we find that the applicant had not made any such written approach to the concerned railway authorities for his re-engagement and averments made in the D.A., that the applicant personally approached the authorities cannot be taken for granted. The grievance has arisen to the applicant for non engagement after 1984. He has also obtained a certificate which is dated 9.9.94 by virtue of date in the photo copy Annexure A-1. In fact for obtaining this document if it is genuine the applicant must have made some written prayer to the concerned authorities with certain averments regarding disengagement and non-engagement. In such a situation, we find that this application cannot be entertained at all, as the applicant had not exhausted the departmental remedies as laid down under section 20 of the A.T. Act, 1985. We are aware that this is not a statutory remedy but at the same time when after years gap a person claims the benefit of earlier service and that he has come and approached in the year 1994 to the department, he should have made a request to the department for considering his

case. The word ordinarily used in section 20 of the A.T. Act, 1985 has been considered by the Full Bench of CAT in the case of B. Parameshwara Rao Vs. The Divisional Engineer, Telecommunications, Eluru and another reported in Full Bench Decision Volume II, Page 250.

We have also gone through the M.A. for condonation of delay. Firstly the application is not maintainable, even though we have considered the application for condonation of delay which does not make out reasonable and probable cause at all. What is averred in the Misc. application is that the respondents are taking work by appointing contractors on the open line and those contractors are engaging labourers on daily wages. What stood in the way physically or financially of the applicant has not been averred in this application for condonation of delay. In view of this, the Misc. application does not make out reasonable and probable cause for condonation of delay.

We have already observed in our order dated 16.2.95 that the similar matter was considered by the Hon'ble Supreme Court in the case

of Ratnam Chand Samanta Vs. UOI reported in 1993 JT(3) 418. If the applicant had a right the remedy is lost by the lapse of time.

On a query put to the learned counsel whether any person junior to the applicant has been engaged, the learned counsel could not give any reply in affirmative and has shown ignorance because no instructions have been given by the applicant to the learned counsel in that regard. This cannot be a case of discrimination also.

In view of this, we find no merit in this application for admission being barred by time as well as under section 20 of the A.T. Act, 1985 and further not making out a case for judicial review. The application is dismissed accordingly.

Adige
(S.R. ADIGE)
Member (A)

Sharma
(J.P. SHARMA)
Member (J)

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