(13)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1862/97, 1767/97, 1885/97 & 741/98

New Delhi, this 13th day of August, 1998

Hon'ble Shri T.N. Bhat, Member(J)
Hon'ble Shri S.P. Biswas, Member(A)

OA 1862/97

1. Biswanath Roy
2. Govind Lal Rai
3. Shyam Paswan
4. Jaya Nanad Jha
5. Kumar Mishra
6. Abdul Daud
7. Raj Kumar Mishra
8. Ashok Kumar Jha
9. R.K. Choudhary
10. Manoj Kumar Jha
11. Premi Roy
12. Ram Nan Pd.
13. Mahesh Roy
14. Baignath Bhagat
15. Faiz Ahmed
16. Amit Kumar
    (all ex.voluntary ticket collectors,DRM, Samastipur) .. Applicants

OA 1767/97

Bijay Kumar Sarkar
D-69, Thomson Road, New Delhi .. Applicant

OA 1885/97

Shekar Kumar Verma
Anand Clinic, Pul Prahladpur
Sharma Market, New Delhi-44 .. Applicant

OA 741/98

1. Umesh Roy
2. Mahesh Khan
3. J.P. Khan
4. S.K. Jha
5. S.K. Jha
6. R.D. Sah
7. I.R. Sah
8. U.K. Khan
9. Ranjit Viliam
10. P.K. Pandit
11. Gopal Kumar
12. O.P. Bharti
13. Md. Nageemuddin
14. R.K. Khan
15. N.K.Choudhary
16. S.K. Singh
17. J.P. Sharma
18. Gopal Kumar
19. R.K. Choudhary
20. Rajesh Ranjan

21. S.K. Jha
22. Bansi Lal Kahhiya
23. Lokesh Chandra Khan
24. A.K. Sharma
(all Ex. Volunteer Ticket collectors, DRM, NE Rly, Samastipur) .. Applicants

(By Advocate Shri B.S. Mainee)

versus

Union of India, through

1. Secretary
Ministry of Railways
New Delhi

2. General Manager
North Eastern Railway
Gorakhpur

3. Divisional Railway Manager
North Eastern Railway
Samastipur (Bihar) .. Respondents

(By Advocate Shri B.S. Jain)

ORDER

Hon'ble Shri S.P.Biswas

The background facts, issues raised, legal question involved and the reliefs sought for in these four OAs are identical and hence they are being disposed of by a common order.

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2. Applicants, sixteen in number, had worked as Volunteers to Ticket Collectors in Samastipur Division of NE Railway. The periods for which they had worked are available in Annexure A-4. In brief, all of them (except the one at Sl.No.8 of A-4) had worked in different spells between October, 1983 and 21.1.84, while the applicant at S.No. 8 had worked only for two days i.e. on 17 and 18.8.85. Applicants at Sl.No.9 to

14 had worked only for 10-11 days. They were paid @ Rs.8 per day as 'out of pocket' allowance. As per the applicants, their claims are fully covered by the judgement of the Hon'ble Supreme Court in the case of **Belal Ahmed & Ors. in SLP(C) No.17971-71A/93** decided on 27.7.95 by the apex court. Pursuant to the aforesaid order of the Supreme Court, applicants had represented their case to R-2 & R-3 in April, 1996 claiming that the ratios arrived at in the case of Belal Ahmed are applicable to them on all fours and it would be wrong on the part of the respondents to deny the facilities to them just because they were not parties in the case of Belal Ahmed.

OA 1767/97

3. Applicant claims to have worked as a volunteer to ticket collector from 22.12.83 to 27.12.83 at Saharsa, NE Railway. He claims that his case is similar in all respects to those in the first OA (i.e. 1862/97). He had submitted his representation (A-7) on 16.6.96.

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4. Applicant had worked as a volunteer to ticket collector from 12.1.84 to 21.1.84 at Supaul, NE Railway as per A-4 certificate. He claims that his claim is identical to that of the aforesaid two OAs. He had sent his representation to R-3 on 29.12.95 followed by another on 2.8.96.

5. Applicants, 24 in number, claim to have worked as Volunteers to ticket ollectors between October, 1983 and 21.1.84 at different stations under NE Railway. Applicant No.18 had worked only for two days i.e. 9 and 10.3.86. They have similar claims as that of the abovesaid three OAs. Many of them had sent representations on 22.2.96/5.10.96.

6. Suffice it to say that all the applicants were working as helpers to Ticket Collectors and the nature/category of posts (C or D category) they could be eligible for consideration, in case their contentions are legally sustainable, has been decided by the Hon'ble Supreme Court in Belal Ahmed's case.

7. The issue that falls for determination in all these four OAs is whether the applicants' cases are hit by limitation. This Tribunal have had the opportunity of examining different aspects on this issue of limitation touching upon re-engagement of MBCs, social guides, Ex RC etc. engaged under the Scheme in OA 1785/94 decided on 13.7.1998. Based on the principles enunciated by this Bench of the Tribunal, as at paras 12 to 17 of the aforesaid OA, we find no good reason, much less convincing one, to overcome the barriers of limitation.

8. Learned counsel for the applicants would then argue that delays in these cases have been explained separately through MAs filed in each OA meant for condonation of delays. It is evident that all the

applicants had been waiting for a decision of the Hon'ble Supreme Court in the SLPs filed by the respondents in the cases of Belal Ahmed and P.K.Srivastava & Ors. V. UOI AIR 1993(1) 85 (OA No.395/91 decided on 29.10.92). It was only after the pronouncement of the judgement of the Hon'ble Supreme Court on 27.7.95 in the aforesaid two SLPs that the applicants decided to submit representations. This can hardly serve the purpose of reasonable ground for condonation of delay. In this connection details in para 17 of our order in OA 1785/94 are relevant.

9 Learned counsel for the applicant then brought to our notice the decisions of this Tribunal in OA 450/95 and OA 663/95 decided on 10.10.96 and 13.7.98 respectively to say that the applications filed much later in 1995-97 have been allowed and therefore applicants' cases in these four OAs herein deserve consideration on the same lines. We are not in a position to persuade ourselves to accept the arguments advanced by the learned counsel for the applicants. This is because respondents in OA 450/95 considered the plea of the applicant therein and conceded that the applicant's case was covered by the Hon'ble Supreme Court's judgement dated 27.7.95 in SLP No.14756/93 and 20114/93 in UOI & Ors. V. P.K.Srivastava & Ors. It is true that the applicant in OA 663/95 was given relief by the Tribunal vide its order dated 13.7.98. That was the case where respondents gave belated replies to the applicant's representations vide communications dated 6.9.94 and 13.9.94, respectively. The latest communications received by the applicant were taken as

fresh cause of action and the respondents' plea of limitation was overruled on that basis. It was held, that if the respondents had chosen to send an unduly delayed negative reply, the applicant could legally take the same being the fresh cause of action. The applicants herein were not in receipt of any communication whatsoever from respondents between May, 1990 and December, 1995.

10. The facts and circumstances of the applicants herein differ from those in the above mentioned two OAs.

11. In view of the discussions aforesaid, all these four applications are dismissed on ground of limitation. There shall be no order as to costs.

(S.P. Biswas)
Member(A)

(T.N. Bhat)
Member(J)

/gtv/

Attested
13/8/98