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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

C.A. NO. 83/94 With MA 78/94

New Delhi this the 18th day of January, 1995.

Shri N.V. Krishnan, Vice Chairman(A).

Dr. A. Vedavalli, Member(J).

Baney Singh Maena
S/o Shri Feli Ram
R/o H.No. A-40, Gali No.9,
Vinod Nagar,
New Delhi.

... Petitioner.

By Advocate Shri A.K. Bhardwaj.

Versus

1. Union of India through
The General Manager,
Central Railway, G.M. Office,
Victoria Terminus,
Bombay.
2. The Divisional Railway Manager,
Jhansi Division, Central Railway,
DRM Office,
Jhansi.
3. The Medical Superintendent (MS),
Jhansi Division, Central Railway,
DRM Office,
Jhansi.

... Respondents.

ORDER (ORAL)

Shri N.V. Krishnan

The grievance of the applicant, who was a Pointsman under the DRM, Jhansi is that he is not being given alternative employment. It appears from the C.A. that on 8.9.1982 the applicant was sent to Jhansi for periodical medical examination. Apparently, there was a difference of opinion between the ADMD and DMD. Therefore, the respondents constituted a Medical Board. That Medical Board gave a finding on 6.10.1982 that the applicant was malingering and was deliberately giving ~~the~~ wrong replies with a motive to get out from the job of Pointsman at station Bad. The Medical Board declared him unfit for all classes. It

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is stated that the report of the Medical Board was sent to the DRM on 4.11.1982.

2. The applicant who reported to the Yard Master, Bad was asked to go to DPO, Jhansi. The DPO, Jhansi did not give him hearing on any point at all. On our directions, the applicant has filed an affidavit which states that he went to the Yard Master on 7.10.1982.

3. The learned counsel for the applicant states at the bar that the applicant has not been given his pay and allowances from November, 1982. The applicant approached the Northern Railway Mazdoor Union (NRMU) to take up his case with the authorities. Apparently, his case was taken up as is evident from the Annexure 'C' ^{minutes of a meeting}/. These proceedings also seem to be incomplete.

4. However, the applicant has filed Annexure 'B' which appears to be dated 10.2.1987 which states that the matter was referred to the Chief Medical Officer on 27.3.1987 and his reply is awaited. However, on the request of the Union, the case has been referred to the Headquarters.

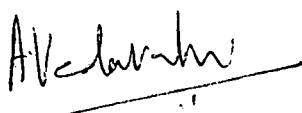
5. The applicant has also filed M.A. 78/94 for condonation of delay. It is alleged in the M.A. that when no decision was taken, the NRMU handed over the case to a counsel in Delhi but he did not pursue the matter and no fees were paid to that counsel. In the circumstance, no legal action was taken up by the NRMU. Hence, this O.A. has been filed belatedly as stated in the M.A.

6. We have heard the learned counsel for the applicant. It is quite clear from the facts that the applicant was not receiving his pay and allowances since November, 1982. The cause of action had occurred ^{to him} /as long back as on that date. The applicant ought to have pursued the legal remedies available

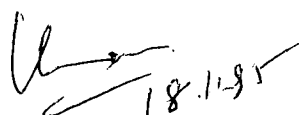
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to him then. The second stage, if it could be considered to be a right of the applicant, occurred, when in 1987 according to the Annexure 'B'; the matter is reported to have been taken up with the Headquarters. Since no reply was given by the Headquarters, the applicant, if he wanted, should have pursued the matter within a reasonable time thereafter. The learned counsel, however, states that the applicant has been making representations to the respondents. These representations do not advance the case of the applicant for limitation. The O.A. has been filed on 6.1.1994. We find, the matter is hopelessly barred by limitation. The M.A. does not give any satisfactory reasons for the delay. The M.A. is, therefore, dismissed. The O.A. is also dismissed.

7. We, however, make it clear that this order will not stand in the way of the respondents if they choose to take any different view of the matter and give any concession to the applicant. No costs.



(DR. A. VEDAVALLI)
MEMBER(J)


18.1.95

(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'