

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION No.168/2020

Dated this Monday the 2nd day of March, 2020

CORAM: Dr. BHAGWAN SAHAI, MEMBER (A)
RAVINDER KAUR, MEMBER (J)

1. Somaji Raoji Ingle,
Aged: Year, Occupation: Retired
Address: Malkapur Sector No.1,
Ekta Nagar Malkapur Tah. Malkapur
Dist.-Buldana, Pin-443 101
Mob.8459907358

2. Ujjwal Somaji Ingle,
Aged: Year, Occupation: Nil
Address: Malkapur Sector No.1,
Ekta Nagar Malkapur Tah.
Malkapur, Dist. Buldana,
Pin - 443 101.

... Applicants

(By Advocate Shri Devendra B. Shukla)

VERSUS

1. Union of India,
Through the General Manager
Central Railway,
2nd Floor, GM' Building
Mumbai CSMT - 400 001.

2. Divisional Railway Manager
Central Railway,
Bhusawal Division,
Address: Near Rly Station,
Bhusawal, Tah Bhusawal
Dist. Jalgaon - 425 201.

... Respondents

ORDER

Per: Ravinder Kaur, Member (J)

We heard the arguments addressed by Shri
Devendra Shukla on the point of Admission. We

have also carefully perused the case record.

2. MA No.194/2020 filed by the applicants for Joint Petition is allowed.

3. The applicants have filed this OA on 30.12.2019 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same direct the respondents to consider the application submitted by the applicant under LARSGESS scheme with all consequential benefits with further direction to respondent to issue appointment letter.

(b) Costs of the application be provided for.

(c) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."

4. The applicant No.1 was appointed as Gangman on regular basis w.e.f. 26.02.1985 with Central Railway. As per policy decision taken by the Railway Board, Safety Retirement Scheme known as 'Liberalized Active Retirement Scheme for Guaranteed Employment for Safety Staff' (hereinafter referred to as 'Larsgess') was introduced. The applicant approached the respondents for the appointment of his ward i.e. applicant No.2 for employment under the aforesaid scheme. As per list dated 26.02.1985, the applicant No.2 was declared to be suitable candidate. He was issued letter dated 19.12.2012

to submit passport size photo for issuance of call letter. The call letter was issued on 21.02.2013. He appeared for medical examination on 14.03.2013 and thereafter was issued medical examination memo dated 01.04.2013. He was declared fit medically vide Annex A-5 dated 29.04.2013 but thereafter he did not receive any communication. The applicant claims that he made several representations to the respondents but he was always informed that the same were under consideration.

5. During the course of arguments on the point of admission, learned counsel for the applicants was directed to point out the representations made by the applicant to the respondent authorities after 29.04.2013 when he was found fit medically. However, he has failed to point out any such representation made to the respondents after 29.04.2013 within reasonable time. Learned counsel has conceded that apart from the representation dated 13.08.2019, the applicant did not submit any representation with the respondents to pursue his case.

6. From these facts, we observe that the applicant has invoked the jurisdiction of this

Tribunal after lapse of around six years from the date of cause of action which accrued in his favour on 29.04.2013. There is no explanation given by the applicant as to why he remained silent till the filing of representation dated 13.08.2019. It is also observed that he has not filed any application seeking condonation of delay in filing the present OA. Section 21 of the Administrative Tribunals Act, 1985 is set out herein below:-

"21. Limitation.-

(1) A Tribunal shall not admit an application,-

(a) in a case where a final order such as is mentioned in Clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in Clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

Notwithstanding anything contained in sub-section (1), where-

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High

Court, the application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or, as the case may be, Clause (b), of sub-section (1) of within a period of six months from the said date, whichever period expires later.

Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

As per Section 21 of the Administrative Tribunals Act, 1985, the period prescribed for filing OA is one year from the date of cause of action. In the present case, the period of one year was over by 28.04.2014. However, the applicant claims that the cause of action arose in his favour due to non-disposal of the representation dated 13.08.2019 by the respondents till the filing of present OA.

7. The Hon'ble Supreme Court in the case of **Bhoop Singh Vs. Union of India** [AIR 1992 SC 1414] held as follows :

"It is expected of a Government servant who has a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. Under the Administrative Tribunals Act, 1985, there is a prescribed period of limitation for approaching this Tribunal. In the instant case, the applicants are

claiming relief from 1988-1989 onwards by filing the present Original Applications in the year 2011. Such inordinate and unexplained delay/lapse is itself a ground to refuse relief to the applicants irrespective of the merits of their claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the minds of others that he is not interested in claiming that relief."

8. The Hon'ble Supreme Court in the case of [Union of India & others Vs. M. K. Sarkar reported in 2010 (2) SCC 59] while considering the issue of arising of cause of action held that when a belated representation in regard to a stale or dead issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal to do so, the date of such decision cannot be considered as furnishing a cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which the order is passed in compliance with a court's direction.

9. The Supreme Court judgment in State of Uttaranchal & Another Vs. Sri Shiv Charan

Singh Bhandari & others [2014 (2) SLR 688 (SC)]

held that even if the Court or Tribunal directs for consideration of representation relating to a stale claim or dead grievance, it does not give rise to a fresh cause of action. In paragraphs 17 and 18 of the judgment, various other judgments were considered as reproduced under:-

17. In **Bharat Sanchar Nigam Limited Vs. Ghanshyam Dass (2) & Others [2011 (4) SCC 374 : [2012 (4) SLR 711 SC]**, a three-Judge Bench of this Court reiterated the principle stated in **Jagdish Lal Vs. State of Haryana [1977 (6) SCC 538]** and proceeded to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

18. In **State of T. N. Vs. Seshachalam [2007 (10) SCC 137 : [2007 (2) SLR 860 (SC)]** this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

".....filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who

are alert and vigilant."

10. In view of the settled proposition of law and the Apex Court judgments referred above, it is clear the applicant slept over his right for a period of around 6 years and for the first time made a representation dated 13.08.2019 with the respondents for his appointment under the LARSGESS scheme. As held by Hon'ble Apex Court, filing of such representation would not save the period of limitation. The applicant has failed to explain the inordinate delay in approaching this Tribunal, which gives rise to reasonable belief in the mind that he is not interested in claiming the relief.

11. Hence the Original Application is dismissed at the admission itself on account of unexplained long delay. No order as to costs.

(Ravinder Kaūr)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

ma.

JD
03/03/20