

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

....

O.A.NO.2126/91

New Delhi, this the 7th of December, 1995

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

Shri Sohan Pal,
s/o Shri Nathu Singh,
r/o House No.4043,
Dal Mandi,
Pahar Ganj, New Delhi.

... Applicant

By Advocates: Shri U. Srivastava

Vs.

1. Union of India
through its Secretary,
Ministry of Law & Justice,
and Company Affairs,
Shastri Bhavan,
New Delhi.

2. The Joint Secretary,
Official Languages Wing
Indian Institute of
Indian Law Institute
Bhagwan Das Road,
New Delhi.

... Respondents

By Advocate: Shri M.M. Sudan

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant has filed this application
under section 19 of the A.T. Act praying for a direction
to the respondents to reinstate him with effect from the
date on which his junior, one Sri Awadh Kishore had been

regularised in service with all consequential benefits.

2. The brief facts of the case are that the applicant was working as a daily wage worker from 18.4.83 till 20.10.83. He was again appointed and continued to work alongwith Shri Awadh Kishore from 27.4.84 till October 1985 when he was discontinued from service alongwith^{the} others. He has also stated that Shri Awadh Kishore approached Delhi High Court vide OM No.577/86 which was transferred to this Tribunal as T.379/86. The Tribunal had rejected the claim of Shri Awadh Kishore by order dated 8.6.89. Against this order Shri Awadh Kishore filed a SLP which was disposed of by the Hon'ble Supreme Court vide order (Annex.A-IV) dated 24.4.90. In this order, the Supreme Court had directed that the respondents will consider the case of the petitioner as he had already worked as casual labourer for a period of 248 days to absorb him in a similar post relaxing the question of age. In pursuance of the Court's order his services were regularised.

3. It appears that the petitioner thereafter approached the respondents on 10.10.90 (Annexure V) requesting them to regularise his services also as has been done in the case of Shri Awadh Kishore. The applicant has referred to the order of engagement dated 27.4.84 in which the applicant appears at Sl.No.3 and Shri Awadh Kishore at Sl.No.4.

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The main contention of Shri U.Srivastava, learned counsel for the applicant is that when the respondents have given employment and regularisation of service to Shri Awadh Kishore, there are no good grounds to discriminate against the applicant who stands in similar circumstances. He, therefore, claims that the action of the respondents is violative of Articles 14 and 16 of the Constitution. On the question of delay, if any, in filing this application, he has referred to the grounds given in MR 437/93 for condonation of delay. In this application it is averred that the applicant came to know about the decision of the respondents to appoint a junior person, Shri Awadh Kishore as casual labourer only in August 1991 and this O.A. has been filed on 13.9.91. He has also submitted that on purely humanitarian and compassionate grounds since the applicant is unemployed and he is only a casual labourer, the delay may be condoned.

4. The respondents have filed a reply in which they have controverted the above averments. We have also heard Shri M.M. Sudan, learned counsel on behalf of respondents, who has pleaded that the case is barred by limitation. He relies on the judgement of Supreme Court

in Bhoop Singh Vs. UOI 1992(21)ATC 675 in which the Supreme Court has held that inordinate and unexplained delay is itself a ground to refuse the relief. In this case, the court has held that a person cannot be permitted to challenge his termination in service without any cogent explanation of the inordinate delay merely because other persons similarly placed have obtained certain reliefs from the court.

5. Shri M.M. Sudan has submitted that the applicant, in this case, who admittedly was terminated from service in October 1985, has only filed this application in 1991 i.e. after a lapse of about six years. The respondents have stated that the representation dated 10.10.90 stated to have been made by the applicant has never been received by the department. Shri Sudan submits that even if this representation is taken into account, the same will not extend the period of limitation as has been held in a catena of judgements by the Supreme Court.

6. We have considered the arguments of both the learned counsel, pleadings and the record in this case.

7. The brief facts are that both the applicant and Shri Awadh Kishore, who were working as casual labourers with the respondents, were terminated from service w.e.f. October, 1985.

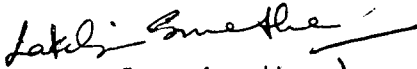
While Shri Awadh Kishore had approached the Delhi High Court by Civil Writ No.577/86 i.e. ~~in~~^{for} one year which on transfer was finally disposed of by the Tribunal by order dated 8.6.1989, it is not the applicant's case that he had approached the competent forum at any time prior to the filing of this application on 13.9.91. The judgment of the Supreme Court in Awadh Kishore Vs.UDI dated 24.4.90 cannot be relied upon by the applicant to extend the limitation period as he has not pursued the remedies in time. It is well settled law that a person who sleeps over his remedies also loses the rights.(See Ratam Chandra Samanta & Ors v.UDI (JT 1993(3) 418) and State of Punjab v.Gurdev Singh (JT 1991(3) 465). The contention of the learned counsel for the applicant that the grievance of the applicant arises only from the date of judgement of the Supreme Court in Awadh Kishore case cannot be accepted because his grievance is that he had been wrongly terminated from service w.e.f. Oct., 1985 and that he should be taken back in service from the date when his junior was regularised. We have also seen the application for condonation of delay. This does not disclose any sufficient grounds for condonation of this inordinate delay and merely basing his claim on the relief granted by the Court

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to another person, cannot extend the limitation, as the cause of action has arisen in 1985. (See Bhoop Singh v. UOI & Ors (JT 1992(3) SC 322). This inordinate and unexplained delay or laches is by itself a ground to refuse relief to the applicant, irrespective of the merit of his claim.

8. In the facts and circumstances of the case, this application is hopelessly time barred and it is therefore rejected. No order as to costs.


(R.K. Ahooja)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)