

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SMT. LAKSHMI SWAMINATHAN, MEMBER 'J'
HON. SHRI R.K. AHOOJA, MEMBER 'A'

17

O.A. NO. 430/1992

NEW DELHI, THIS 5TH DAY OF MAY, 1997

SHRI GAURI SHANKAR VERMA
S/o Sh. Janaki Prasad
54-A, Gali No.6
Chandra Nagar
Indra Park Extension
DELHI..APPLICANT

...APPLICANT

'By Advocate - Shri B.S. Mainee'

VERSUS

1. Union of India, through
Through The General Manager
Ministry of Railways
Rail Bhawan
NEW DELHI
2. The General Manager
Northern Railway
Baroda House
NEW DELHI
3. The Div. Railway Manager
Northern Railway
Allahabad

..RESPONDENTS

'By Advocate - Shri P.S. Mahendru'

ORDER 'ORAL'

SMT. LAKSHMI SWAMINATHAN, MEMBER 'J'

The applicant has challenged the action of the respondents in ignoring his claim for engagement as casual Booking Clerk in terms of the letter issued by the respondents dated 31.3.1986. According to the applicant, he was at serial No.12 in this letter and he ought to have been selected for appointment as casual Booking Clerk. He therefore claims that under the provisions of Articles 14 and 16 of the Consti-

18

tution, a direction may be given to the respondents to appoint him as a Mobile Rooking Clerk and give him seniority as per the original list issued by the respondents dated 31.3.1986.

2. The respondents have filed their reply in which they have submitted that although the applicant's name is at S.No.12, however in the new seniority list they had published, his name was at S.No.19. Shri Mahendru, ld. counsel for the respondents, submits that this list was only a list showing the applicants and was not a seniority list. The respondents have also taken a preliminary objection that the case is hopelessly time barred.

3. On the question of limitation, Shri B.S. Mainee, ld. counsel for the applicant, has relied on a judgement of the Supreme Court in COLLECTOR OF LAND ACQUISITION VS. LATHIJEE (AIR 1987 SC 1353). He submits that in the interest of justice, the courts have time and again held that technical pleas should not be taken to defeat a meritorious claim. He also relies on the letter addressed from the Railway Minister's office dated 30.4.1991 and the subsequent letter issued by the respondents dated 15.5.1991 for taking further necessary action in the matter. He therefore submits that the application is not barred by limitation as the respondents have themselves taken action with regard to the applicant's claim for appointment in 1991 and this O.A. has been filed soon thereafter on 17.2.1992.

4. We have carefully considered the submissions made by both the ld. counsel on the preliminary question of limitation. There is a catena of judgements of the Supreme Court, including the latest judgement in L. CHANDRA KUMAR VS. UOI (1997 (3) scale 40), RATTAM CHANDRA SAMANTA & ORS. VS. UOI (JT 1993 (3) SC 418 and STATE OF PUNJAB VS. GURDEV SINGH (1991 (4) SCC 1), wherein this plea has been upheld. In

(19)

Rattam Chandra Samanta's case (Supra), the Supreme Court has held that delay deprives the person of the remedy available in law, and a person who does not pursue his remedy within the prescribed time loses his right as well. It is also relevant to note that in L. Chandra Kumar's case (Supra), the Supreme Court has held that this Tribunal does not have the power to condone delay. In this case, the ld. counsel for the respondents has pointed out that the applicant has even failed to file an application for condonation of delay and the ld. counsel for the applicant has made submissions based on his late¹² representations. Shri Mahendru further submits that the scheme for employing Mobile Booking Clerks has since been discontinued as early as 1987. The applicant has made a representation to the Minister of Railways on 28.5.1989 for being given appointment in a suitable job, as he also belongs to the Scheduled Caste. We note that he has however filed this application nearly three years later in 1992 for directions to the respondents to appoint him as a Mobile Booking Clerk. Shri Mainee, ld. counsel, could not also clarify as to what is the present position regarding the applicant's employment. From these facts, therefore, we cannot help but conclude that the applicant has not pursued his remedies seriously, particularly in the matter of employment, which he ought to have done if he was keen on securing the same.

5. In the facts and circumstances of the case, we find that this application suffers from laches and delay and is hopelessly time barred. In the result, the O.A. fails and is accordingly dismissed. No costs.

R. K. Ahuja
(R.K. AHUJA)
MEMBER (A)

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)