

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH:ALLAHABAD

ORIGINAL APPLICATION NUMBER 235 OF 1998

ALLAHABAD, THIS THE 16th DAY OF APRIL, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. Mool Chand son of Bicheta
2. Baboo Lal son of Patarva
3. Raju son of Malkhan

All residents of village and post Karaihiya,
District-Hamirpur.

4. Munni Lal s/o Bhaiya Lal
r/o Village Purani Bailai Post Maujanipur,
Jhansi.

All the applicants worked under Permanent Way
Inspector Chitrakut Dham, Karvi, Banda,
under D.R.M. Jhansi.

.....Applicants

(By Advocate : Shri R.K. Rajan - Absent)

V E R S U S

1. Union of India through Secretary,
Ministry of Railway Rail Bhawan,
New Delhi.
2. General Manager, Central Railway, Mumbai CST.
3. Divisional Railway Manager, Jhansi.
4. Permanent Way Inspector, Chitrakut Dham, Karvi,
Banda, under the D.R.M. Jhansi.

.....Respondents

(By Advocate : Shri G.P. Agarwal)

O R D E R

Perusal of the order-sheet dated 17.11.2003 shows
that the matter was adjourned on an undertaking given by
Shri R.K. Rajan counsel for the applicant that he would



argue the matter definitely on the next date and in case he does not appear, court may pass appropriate order. Thereafter, matter was not listed as Bench was not available. Today again neither there is any request for adjournment on behalf of applicant's counsel nor he is present in court. Therefore, I am deciding this case on merits after hearing respondents counsel and perusing the original application by attracting rule 15(i) of C.A.T. Procedure Rules(1987).

2. This O.A. has been filed by 4 applicants claiming a direction to the respondents to re-engage the applicants in service. They have further sought a direction to the respondents to verify the original records and pay-slips, which is under the control of the respondents and to give all the privileges and benefits attached to the post of Temporary Status of Class IVth employee.

3. It is submitted by the applicants that they were initially engaged on 03.10.1983 to 18.3.1984 and 19.10.1982 to 18.7.1983 respectively. As far as applicant No.4 is concerned, he worked as casual labour w.e.f. 19.4.1983 to 18.10.1985. Thereafter they were disengaged. They have submitted that work was available with the respondents, therefore, there was no justification to disengage the applicants as respondents have engaged juniors than the applicants after disengaging them. They have further submitted that Section 25-H of Industrial Dispute Act clearly states where any workman is retrenched, he shall be given an opportunity to be re-employment and they shall have preference over other persons but neither they were given preference nor opportunity, therefore, they have been discriminated against. They have further submitted that O.A.No. 1550/92 was filed by some of the casual labours, which was decided on 10.12.1996 and since case of the applicants are also identical in nature they are entitled to be given the same benefits. They have, thus, submitted that since juniors

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to applicants have been re-engaged therefore, they may also be given the relief(s) as mentioned above.

4. Respondents on the other hand have opposed this O. A. on the ground that if applicants' case is for violation of the law laid down under Industrial Dispute Act then they have to approach the Labour Court and this court has no jurisdiction to even adjudicate in the matter. Even otherwise this O. A. is barred by limitation in view of the judgment given by Hon'ble Supreme Court in the case of Ratan Chand Samanta as no fresh cause of action had arisen in favour of the applicants in the year 1998, which could give them a right to file the present O. A. in 1998. and admittedly applicants were disengaged in 1984 or ¹⁹⁸⁵ therefore, cause of action, if any, had arisen ⁱⁿ 1984-85 as such O. A. is barred by limitation. They have, stated categorically that no persons junior to the applicants have been re-engaged. As far as the judgment given by this court is concerned, they have submitted that the relevant judgment of Hon'ble Supreme Court was not brought to the notice of Tribunal at that time, therefore, judgment given by this Tribunal is of no consequence and no right accrues on applicants to claim benefit of the judgment, which was passed in favour of some other persons. Counsel for the respondents relied on the Judgment of Hon. Supreme Court in the case of Bhoop Singh for this purpose.

5. I have heard respondents' counsel and perused the pleadings. Admittedly, as per applicants own showing applicants No. 1 to 3 had worked with the respondents only from 1983 to 1984 while applicant No. 4 had worked from 1983 to 1985. Thereafter their services were disengaged. Therefore, cause of action, if any, had arisen in favour of the applicant either in the year 1984 and or in the year 1985. As per Section 21 of the Administrative Tribunals Act 1985.



applicants should have approached the Tribunal within 1 year from the date of cause of action but no such effort was made by the applicants to seek redressal of their grievance, therefore this O.A. is definitely barred by limitation. The present Original Application has been filed only in the year 1998 but applicants have not been able to show me what fresh cause of action had arisen in their favour in the year 1998 except judgment given ~~by~~ by this Tribunal in the year 1997. Perusal of the judgment shows that it was filed by the applicants therein in the year 1992. Law is well settled by Hon'ble Supreme Court in the case of Bhoop Singh that a judgment given by Court in favour of some persons cannot extend the period of limitation for others nor it can give a right to others to claim the same benefit which is given to the applicants in the case. Even otherwise, perusal of the said judgment shows that the facts narrated by the applicants therein were admitted by the respondents in counter affidavit. Therefore, there was no dispute as such with regard to the fact of the said case whereas in the present case respondents have taken preliminary objection to the maintainability of the O.A. itself and since this O.A. is barred by limitation naturally applicants have first to cross that hurdle. Then only we can go to the merits of the case. It is seen that applicants have not filed any application for condonation of delay with the O.A., even though, this O.A. is clearly barred by limitation. It has been held by Hon'ble Supreme Court in the case of Ratan Chand Samanta Vs. U.O.I. & Ors. reported in 1993(3)SC 67 that a person who sleeps over his right loses the remedy as well. In that case, petitioners had approached Hon'ble Supreme Court after a lapse of more than 15 years that too without substantiating documents to prove their cases, it was held by Hon'ble Supreme Court that delay deprives the persons of remedy available in law and a persons who has lost his remedy by lapse of time loses his right as well. Writ Petitions were accordingly dismissed, Present case is clearly

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covered by the ratio of the above said case. It is further held by Hon'ble Supreme Court in the case of Ramesh Chandra Sharma Vs. Udham Singh Kamal reported in 2000(2)AISLJ SC 89 that Tribunal cannot even entertain the petition which is barred by limitation and limitation cannot be waived unless it has been applied for. In the instant case, I have already stated above that applicants have not even filed any application seeking condonation of delay, therefore, not only this O. A. is barred by limitation but since applicants have not even sought condonation of delay, I cannot even look in to the merits of the case. Since this case is fully covered by the judgment as referred to above, therefore, this O.A. is dismissed as barred by limitation. No order as to costs.



Member (J)

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