

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1550 of 2004

Friday, this the 15th day of February, 2008

Hon'ble Mr. K.S. Menon, Member (A)

Fulgen Mishra S/o Hans Raj Mishra, R/o Village and Post Siwra Tahsil
Machhali Shahar, Distt. Jaunpur.

Applicant

By Advocate Sri R.C. Tripathi

Versus

1. Union of India through General Manager, Northern Railway,
Baroda House, New Delhi.
2. Divisional Railway Manager, Lucknow Division, Northern Railway,
Lucknow.
3. Karmik Asstt. Engineer, Northern Railway, Hajrat Ganj, Lucknow.

Respondents

By Advocate Sri Prashant Mathur

ORDER

By K.S. Menon, Member (A)

This O.A. has been filed seeking directions of this Court to be given to the respondents to decide the representation of the applicant and pass orders with regard to his reengagement in the department and payment of salary accordingly.

2. The facts of the case in brief are that the applicant was appointed on 10.04.1978 as a casual labourer and was reportedly granted temporary status. The applicant's grievance is that while those who were junior to him like Shri Satya Singh S/o Munni Lal Singh and Palak Dhari S/o Jhoori and were appointed alongwith him were regularised while he was not. Applicant submits that the respondents kept assuring that his case would be considered but since nothing happened, he made personal contacts with respondent No. 2 and 3. Once again he was assured that his case would be considered like that of Shri Satya Singh and Palak Dhari and was asked to wait for the call letter. Since nothing happened he sent another representation by registered post to respondent No. 2 and 3 in 1998 which is yet to be disposed of. In fact

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none of his representations have been replied to one way or the other, which he submits is highly illegal and arbitrary. Applicant came to know only in 2004 that some one junior to him was reengaged in service by the respondents and so he filed the present O.A. on 01.10.2004 which was time barred, so he filed a delay condonation application No. 939 of 2005 on 22.05.2005.

3. The respondents submitted their preliminary objections to the O.A. and the delay condonation application on 04.08.2005. The O.A. was dismissed in default and for non prosecution on 20.04.2006 and for non-filing of Rejoinder Affidavit despite last opportunity being given. The applicant filed an application No. 2421 of 2006, seeking to recall the Order dated 20.04.2006 belatedly on 04.08.2006.

4. The respondents also filed a Short Counter Affidavit challenging the O.A. and the delay condonation application filed by the applicant only on the point of limitation and reserve their right to file a detailed counter if directed by this Tribunal. Their main submission is that the applicant who was appointed on 10.04.1978 had the right to be placed on the Live Casual Labour Register in and around the year 1980/1982. He however chose to stake his claim for his name to be included in the panel or be put on the Live Casual Labour Register and be reengaged in service with regularisation and all consequential benefits including back wages only in 2004 i.e. after more than 24 years. They therefore contend that such a claim is not liable to be entertained by this Tribunal as it is barred by limitation. They have also drawn the attention of this Court to clause (a) of sub section (2) of Section 21 of the Administrative Tribunals Act, 1985 which refers to grievances arising by reason of any order of the authorities made at any time during the period of three years immediately preceding. It lays down therein that in all such cases where in respect of orders made more than three years before the said date the power of the Tribunal to condone the delay will not be available. They have also cited several High Court/Supreme Court decisions in this context, which lends force to the above legal provision as under: -

- (i) 1987 (3) ATC 427 Sheo Kumar Dey Vs. Union of India.
- (ii) 1987 (5) ATC 521 R.L. Buxy Vs. Ministry of Defence.
- (iii) 1995 SCC (L&S) 50 S.S. Rathore Vs. State of M.P.
- (iv) 1995 SCC (L&S) 278 High Court of M.P. Vs. Mahesh Prakash.
- (v) AIR 1991 SC 1219 State of Punjab Vs. Gurudeo Singh.

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(vi) 1994 SCC (L&S) 182 Ratan Chand Samanta Vs. U.O.I.

(vii) 1992 (21) ATC 675 Bhoop Singh Vs. Union of India.

The Full Bench decision of Central Administrative Tribunal as reported in 2000 (3) ATJ 1 in the case of Mahabir Prasad and others Vs. Union of India, has held that the Railway Board circulars dated 25.01.1981 and 28.08.1987 which provides for placement of names of casual labours on the Live Casual Labour Register do not give a continuous cause of action. Respondents further submit that the applicant besides filing the O.A. belatedly has neither explained the reasons for the delay in the body of the O.A. nor has he given a plausible and reasonable explanation for the delay caused in filing the O.A. duly supported by documents in proof of his delay condonation. Since the reliefs sought in the O.A. are barred by limitation under Section 21 of the Act and delay condonation application filed is not proper, the O.A. cannot be entertained on merits and is liable to be dismissed on grounds of limitation.

5. Heard, Shri R.C. Tripathi, Counsel for the applicant and Shri Prashant Mathur, Counsel for the respondents and perused the pleadings on record.

6. This O.A. was dismissed in default on 20.04.2006 and the applicant filed M.A. (No.2421/2422 of 2006) for recalling the Order alongwith a delay condonation application on 04.08.2006. In the interest of justice, the Misc. Applications were allowed and the case was heard.

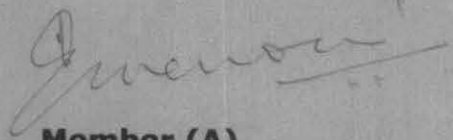
7. The O.A. is very sketchy as regards facts and dates. A thorough scrutiny of the pleadings on record indicate that the applicant was not engaged in the respondents' department after 31.03.1981, prior to which he had worked in broken spells from the date of his appointment in April 1978. He should have rightly approached the respondents in 1982 or within ^{years in} three years in 1985 to have his name put on the Live Casual Labour Register which he did not do and has filed this O.A. only in 2004 after a lapse of 18/22 years. Even if his name was entered in the said register, this would not come to his help in view of the Delhi High Court Judgment in the case of Jagdish Prasad Vs. Union of India reported in ESC 2002 Vol. (3) page 574, which held that merely placement of the name in the Live Casual Labour Register, will not give any good ground for claiming any relief after inordinate delay in the matter. Section 21 of the Administrative Tribunals Act also provides that one can agitate

his claim within one year from the date of cause of action and in this case the cause of action arose in 1982/1985 hence the O.A. is barred by limitation.

8. The applicant filed this O.A. on 01.10.2004, while the delay condonation application No. 939 of 2005 was filed on 22.02.2005. In the delay condonation application also besides mentioning that he came to know of his junior being reengaged only in 2004, he has not adduced any other valid reasons duly supported by documentary proof in support of the delay in filing the O.A. Subsequently in spite of ample opportunity given he has not filed any Rejoinder rebutting the arguments put forth by the respondents in their counter affidavit. The O.A. was dismissed in default on 20.04.2006, here again the applicant filed the Recall Application on 04.08.2006 well after the prescribed period. The Recall Application was allowed purely in the interest of justice. There is also some force in the submissions of the respondents that filing of this O.A. after such inordinate delay would make it difficult for the respondents to verify the correctness of the statements made in the O.A. (which as mentioned earlier is in itself very vague regarding facts and dates), as the records for the said period have been weeded out as per instructions in force.

9. In view of the above facts and the various settled case laws cited above, it is observed that this O.A. is barred by limitation, without any plausible or reasonable reasons being given by the applicants for the said delay. It is also beyond the scope of this Tribunal to condone such a delay in terms of clause (a) Sub Section (2) of Section 21 of the Administrative Tribunals Act, 1995. Since I am holding that the O.A. is time barred, I am not going into the merits of the case.

10. The O.A. is therefore dismissed as being barred by limitation. No cost.


Member (A)

/M.M/