

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

**Misc. Application No. 330/04352/2015
In
Original Application No. 330/01693/2015**

Allahabad this the 24th day of February 2020

Hon'ble Mr. Justice Bharat Bhushan, Member-J

Shameem Ahmad, son of Haneef Resident of Village Harthala, P.S. Harthala, District-Moradabad.

Applicant

By Advocate: Mr. Yogesh Mishra

Vs.

1. Union of India through its Secretary Ministry of Railway, Government of India, New Delhi.
2. The Railway Board through its Secretary, Rail Bhawan, New Delhi.
3. The General Manager, Northern Railway, Baroda House, New Delhi.
4. The Divisional Rail Manager, Moradabad, Northern Railway, Moradabad.
5. Senior Divisional/Personal Manager, Northern Railway, Moradabad.

Respondents

By Advocate: Mr. Anil Kumar

O R D E R

Delivered by Hon'ble Mr. Justice Bharat Bhushan, Member-J

Shri Yogesh Mishra, counsel for the applicant and Shri Atul Kumar Shahi, Advocate holding brief of Shri Anil Kumar, Advocate for the respondents are present.

2. The applicant has filed this O.A. in the year 1015 seeking re-engagement in the respondents' department. The submission of applicant's counsel is that the applicant was initially engaged by Northern Railway as labour on 22.03.201980 and probably continued till 2000. A work certificated was allegedly given to him in the year 1986 which indicates that the applicant had worked merely for 36 days during A.K.

Mela. In this work certificate, the applicant's date of birth is shown as 10.03.1960.

3. Apart from the above said work certificate, no other evidence has been placed by the applicant on record to demonstrate that he was ever re-engaged subsequent to the year 1980.

4. The claim of applicant is that in the year 2001, Rail Mazdoor Union through its Zonal Vice President has filed a Writ Petition No. 41200 of 2001 which was dismissed on 20.05.2010. The relevant portion of this Judgment of the Hon'ble High Court is reproduced as below: -

"Respondents have rightly taken the point that the matter is in service in nature in which the public interest litigation is not maintainable. This is the latest legal position, therefore apart from the same they have stated that in case of any dispute they can go before appropriate Court or Tribunal, made for labour disputes or approach before the authority concerned.

Against this background, we do not want to interfere with the matter but to dispose of the writ petition only with an observation that if the petitioners union want to approach the authority concerned, they may do so at the earliest i.e. within a period of 15 days from the date of communication of this order and if do so, first of all, it will be taken care of by the Railway Authority and in case of failure thereon, they may proceed in accordance with law. No further order is required to be passed."

5. Counsel for the applicant has submitted that the applicant had made several representations and subsequently filed a Writ Petition No. 51811 of 2015 which was withdrawn by the applicant on 18.09.2015 with liberty to take recourse of the remedy which would be available to him. Thereafter, the applicant filed the O.A. in this Tribunal on 05.11.2015. In which, objection in the shape of counter affidavit has been filed on 24.09.2019. Rejoinder Affidavit has also been filed by the applicant on 07.11.2019.

6. Heard counsel for the parties on delay condonation application (MA No. 4352/2015).

7. It is apparent that the applicant was first engaged on 22.03.1980 meaning thereby he has filed the O.A. after 35 years. The only work certificate, available on record, says that the applicant worked merely for 39 days from 22.03.1980 to 26.04.1980.

8. The applicant kept on sleeping for 35 years before he first approached to this Tribunal. This delay is seriously detrimental to the interest of the applicant. No reasonable, logical and satisfactory explanation has been given by the applicant to this long delay. It is also necessary to point out that the work certificate issued on 01.01.1986 indicates that the applicant's date of birth is 10.03.1960 meaning thereby the applicant would be completing date of superannuation in March 2020. This O.A. is at the stage of consideration of delay condonation application. Even if this Tribunal agrees to hear the grievances of applicant, it would mean that the O.A. would be heard after his supposed date of superannuation. No useful purpose would be served by keeping this O.A. pending. The M.A. No. 4352/2015 (delay condonation application) and the O.A. No. 1693/2015 are not sustainable.

9. In view of the above, MA No. 4352/2015 (delay condonation application) is dismissed. Consequently, the O.A. No. 1693/2015 stands dismissed as well.

(Justice Bharat Bhushan)
Member- J

/M.M/