

(Reserved)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. 62/989/2021



Pronounced on: This the 13th day of July 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)

1. Gulzar Ahmad Itoo, Aged 34 years, S/o Abdul Gani Itoo, R/o Pahloo Kulthar, P/O Nowgam, Anantnag-192201. Presently posted at GE865, Engineer Works Sect. Leh.
2. Ashiq Hussain Wani, Aged 34 years, S/o Abdul Rashid Wani, R/o Wanihama, P.O. Wanihama, P.O. Dialgam, District Anantnag-192210.
3. Aijaz Ahmad Shah, Aged 31 yeas, S/o Ghulam Rasool Shah, R/o Nowgam, Anantnag-192201. Presently Posted at GE, Kunathen, Kargil.

.....Applicants

(Advocate: Mr. M.A. Qayoom, Sr. Advocate assisted by Mr. Mian Tufail)

Versus

1. Union of India through Ministry of Defence, New Delhi-110011
2. Chief Engineer, Northern Command, Udhampur Zone, C/o 56 APO-914698.
3. Chief Engineer, Leh Zone, C/o 56 APO-901205.
4. Col Commander, HQ 138 Works Engineers, C/o 56 APO-914138.
5. Garrison Engineer, Kumathan, Kargil, C/o 56 APO-194101.
6. Assistant Garrison Engineer, Partapur Leh, C/o 56 APO-908102.
7. Controller of Examinations, Board of Higher Secondary Education, Delhi-110018.

.....Respondents

(Advocate: Mr. Raghu Mehta, learned Sr. C.G.S.C.)

(ORDER)**(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member (J))**

1. The case of the applicants is that they had challenged the termination notices dated 01.07.2013 before the Hon'ble High Court of Jammu and Kashmir at Srinagar by filing SWP No. 1334/2013. The operation of the termination notices were stayed by the Hon'ble High Court vide order dated 25.07.2013. It is the case of the applicants that the SWP was dismissed vide order dated 06.10.2017 and since the applicants were posted at far flung areas, they had no knowledge about the order dated 06.10.2017. It was only after enquiry from their counsel, they came to know about the dismissal of the SWP. The Hon'ble High Court had dismissed the SWP observing that it does not have the jurisdiction to hear the case and gave liberty to the applicant to approach this Tribunal. Hence, the applicants in the present O.A. seek quashment of the orders dated 01.07.2013. The applicants seek stay of the operation of the termination notices bearing no. 1013/R/516/E1B, 1013/R/517/E1B and 1013/R/518/E1B dated 01.07.2013 till disposal of the O.A.
2. Learned counsel for the applicants submits that the applicants have continuous cause of action to file the present O.A. challenging the



orders dated 01.07.2013 and the applicants at present are working at their respective place of postings, as such, the impugned orders be stayed till disposal of the O.A. In the alternate, learned counsel for applicants submitted that the O.A. can be disposed off by directing the respondents to consider the O.A. as representation and review the impugned orders. He further submits that since the applicants have continuous cause of action, there was no need to file the application for condonation of delay but it has been filed as a matter of abundant caution.

3. On the other hand, learned Sr. C.G.S.C. submits that the O.A. is barred by period of limitation, as such, no interim relief can be given to the applicants.
4. We have heard Mr. M.A. Qayoom, Sr. Advocate assisted by Mr. Mian Tufail, learned counsel for the applicants and Mr. Raghu Mehta, Sr. C.G.S.C. for the respondents and perused the records.
5. During the course of arguments, on query by the Bench, it was submitted by learned counsel for applicants that the applicants are still serving under the respondents which has not been rebutted by learned counsel for respondents.



6. It is a fact that the applicants had filed SWP No. 1334/2013 challenging the orders of termination of their services which were stayed by the Hon'ble High Court. The SWP was dismissed vide order dated 06.10.2017. Learned counsel for applicants had submitted that since the applicants were posted at far flung areas, they had no knowledge about the order of dismissal of their SWP and nor they were informed by their advocate about the dismissal order dated 06.10.2017. The Hon'ble High Court had dismissed the SWP observing that it does not have the jurisdiction to hear the case and gave liberty to the applicant to approach this Tribunal. Hence, the applicants in the present O.A. seek quashment of the orders dated 01.07.2013.

7. On the issue of delay, it is a fact that the respondents have not taken any action on the orders of Hon'ble High Court for the last four years. Due to this fact, the cause of action against the impugned orders continues till date. In any case, looking to the facts and circumstances of the case, we are of the opinion that the applicants have a continuous/recurring cause of action to challenge the termination orders/notices.

8. In view of the facts of the case, we dispose of the O.A. with direction to the respondents to consider the O.A. as representation of the applicants and review the impugned termination orders bearing no. 1013/R/516/E1B, 1013/R/517/E1B and 1013/R/518/E1B dated 01.07.2013 by way of a reasoned and speaking order with intimation to the applicants within a period of two months from the date of receipt of copy of this order. No costs.



(ANAND MATHUR)
MEMBER (A)

Arun/-

(RAKESH SAGAR JAIN)
MEMBER (J)