

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21st DAY OF JULY, 2000

Original Application no.1493 of 1992

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Raghbir Singh, S/o Shri Baldev
Aged about 50 years, R/o village
Azadpur, Post Kumarrah, District Tikamgarh(M.P)
Casual Labour, Railway Stateion Orchha,
Jhansi Division.

.... Applicant

(By Adv: Shri H.P.Pandey)

Versus

1. Union of India through the General manager,
Central Railway, G.M's Office,
Bombay V.T.
2. Divisional railway Manager,
Central railway, Jhansi D.R.M's Office
Jhansi.
3. Divisional Railway manager(Personnel)
D.R.M's Office, Central Railway,
Jhansi.

.... Respondents.

(By Adv: Shri V.K.Goel)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

This application Under Section 19 of the A.T.Act 1985 has been filed by the applicant Raghbir challenging order dated 21.5.1988. It appears that applicant was engaged as a Casual Labour in 1977. He continued to work upto 1988. However, on 21st May, 1988 respondent no.3 Divisional Railway Manager Personnel(Senior Divisional Personnel Officer),Jhansi made an inspection and gave a note which was incorporated in Casual Labour Service Card. The note reads as under:-

"Raghbir Singh, S/o Baldeo was initially engaged in 1977 when he was 35 years old. This man is very much overaged and there is no justification to continue him even as Casual Labour because his services can never be regularised. S.M. was advised not to re-engage him in future (R.A. Sani, Senior D.P.O). After this order, it has been stated in the application, that applicant was not allowed to work. He made representation to various authorities for being engaged again. The copy of the representations have been filed as Annexure A-7 dated 14th April, 1989, Annexure A-10 dated 17th April, 1990, Annexure A-11 dated 18.2.1991 and Annexure A-12 dated 6.5.1991. It is alleged that as aforesaid representations were not decided and no action was taken, he approached this Tribunal and filed this application. Counter and Rejoinder affidavit have been exchanged.

We have heard Shri H.P. Pandey, learned counsel for the applicant and Shri V.K. Goel learned counsel for the respondents.

Shri V.K. Goel learned counsel for the respondents raised preliminary objections against maintainability of this application. The first objection is that this Tribunal has no jurisdiction to hear this matter as the cause of action to the applicant arose in 'State of Madhya Pradesh at Orchha. It is stated that he was serving in Railway Station Orchha from where he was disengaged by the order of the station master and this application is not maintainable in this Tribunal. Shri H.P. Pandey, learned counsel for the applicant, on the other hand, submitted that the applicant was disengaged on account of the inspection note dated 21.5.1988 of the respondent no. 3 namely Divisional Railway

Manager who is also called Senior D.P.O, his office is located at Jhansi. Thus, the part of cause of action arose to the applicant at Jhansi, which is in State of U.P. and this application is maintainable in view of Rule 6 of Central Administrative Tribunal(Procedure) Rules, 1987. We have considered the submission of the learned counsel for the parties. Rule 6(1) of the Rules reads as under:-

Place of filing application:-

- (1) An application shall ordinarily be filed by an applicant with the Registrar of the Benchy within whose jurisdiction-
 - (i) the applicant is posted for the time being, or
 - (ii) the cause of action, wholly or in part has arisen:
Provided that with the leve of the Chairman the application may be filed with the Registrar of Pricnipal bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.
- (2) Not-withstanding anything contained in Sub-rule(1) persons who have ceased to be in service by reasons of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Benchcc within whose jurisdiction such person is ordinarily residing at the time of filing of the application.

From perusal of Rule 6, it is clear that the application may be filed before a Bench where even a part of cause of action ^{arose} within the jurisdiction of such Bench. In the present case, it cannot be disputed that the applicant was disengaged from the work as Casual Labour on account of the note of respondent no.3 whose office^{is} situated at Jhansi within the State of U.P. Thus the part of cause of action had arisen, in State of Uttar Pradesh and this

(Signature)

Bench has jurisdiction to hear the dispute. The application is legally maintainable.

The second objection of Shri Goel is that on his own showing applicant was disengaged w.e.f. 21st May 1988. However, this application has been filed on 15.10.1992. It is submitted that the application is clearly time barred and is liable to be rejected on the ground of limitation. Shri H.P.Pandey on the other hand, submitted that after applicant was disengaged he made several representations before the authorities from time to time and he was ~~expecting~~ orders on representations. It is submitted that the application has been made within the reasonable time, if the time taken in making representations is excluded. Shri V.K.Goel also submitted that the representation filed alongwith the OA were not received by the respondents and their existence is denied. It is further submitted that the representations have been manufactured only for the purpose of this application.

We have carefully considered the submissions of the learned counsel for the parties. It is not disputed that applicant is illiterate and has put his thumb impression on the application as well as on the representations. He ~~belongs~~ ^{to} ~~reserve~~ category of S.C. It is difficult to believe that he could have manufactured these representation for the purpose of this application. Be as it may, considering his age, social status and the facts and circumstances, in our opinion, it is a fit case where in the interest of justice delay in filing application, if any, may be condoned. The delay is accordingly condoned.

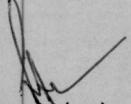
We have heard learned counsel for the parties on merits. Learned counsel for the applicant has submitted that the inspection note was incorporated in the Casual Labour Service Card of applicant which was basis of his disengagement from service after 21st May 1988. It has been

submitted that ~~impact~~ of the note was that the respondent no.3 doubted the legality of the engagement of the applicant in 1977. The note had serious adverse effect and entailed serious civil consequences against the applicant and it could not be passed without giving him reasonable opportunity of hearing. The order is illegal and void having been passed in violation of principles of natural justice. learned counsel has further relied on the Railway board Circular No.E(NG)II/91/CL/71 of 25.7.1991 which provided that age relaxation to Casual Labours and substitute Services, in upper age limit to the extent of 40 years in case of General candidates and 45 years in case of SC/ST candidates may be granted. Shri V.K. Goel on the other hand, submitted that the applicant was immediately apprised of the inspection note of Senior D.P.O and in case of disengagement of a casual labour no opportunity of hearing was required to be given. Learned counsel has further submitted that the circular relied on by the learned counsel for the applicant could be applicable only at the time of regularisation. the comments of the Senior D.P.O that applicant can never be regularised was justified as on the date 21st May 1988 applicant had already crossed 45 years of age.

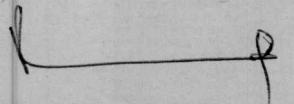
We have carefully considered the submissions of the learned counsel for the parties. It is not disputed, that before passing the order dated 21st May, 1988, under which the applicant was disengaged from service, no opportunity of hearing was given to the applicant. It can also not be disputed that the order entailed serious civil consequences and opportunity of hearing in such case before passing the order was a must. For this short reason, in our opinion the order dated 21st May 1988 cannot be sustained. The respondents could not deny the opportunity of hearing to the applicant on the basis of assumption that he shall have no

:: 6 ::

defence. For the reasons stated above the application is allowed, order dated 21st May 1988 is quashed. However, the respondents shall have liberty to pass fresh order after giving opportunity of hearing to the applicant. There will be no order as to costs.



MEMBER (A)



VICE CHAIRMAN

U.Verma