

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 1732 of 1992

Allahabad this the 50th day of August 1995

Hon'ble Dr. R.K. Saxena, Member (J)
Hon'ble Mr. S. Dayal, Member (A)

Om Bahadur S/o Late Chanchal Singh R/o Near Railway
Technical School Block No.K-431, Quarter no.2 Jhansi.

APPLICANT.

By Advocate Shri R.C. Gupta

& Versus

1. Union of India through the Secretary Rail Bhawan, New Delhi.
2. Divisional Railway Manager, Central Railway, Jhansi Division, Jhansi.

RESPONDENTS.

By Advocate Shri Prashant Mathur.

ORDER

By Hon'ble Dr. R.K. Saxena, Member (J)

The applicant who worked as Gangman at Bhopal from 27.5.1982 to 18.9.86 and whose services were terminated, has filed this O.A. seeking the relief of regularisation of his services and payment of emoluments w.e.f. 18.9.1986.

2. The facts of the case are that the applicant was appointed as Gangman under P.W.I., Bhopal and

worked in the said capacity from 27.5.1982 to 18.9.86. He was given status of M.R.C.L. on completion of 120 days of service. The medical examination was also done and he was found fit. His services were terminated on the ground that his service card was not verified by the issuing authority. No opportunity of hearing was given to him. It is also contended that neither the requirement of Section 25 of the Industrial Dispute Act, 1947 was fulfilled nor was compensation paid. Similarly situated persons were taken back in service. The applicant had made several representations and the last was made on 24.10.92. but, they remained unanswered, hence this O.A. seeking regularisation of service and payment of salary is made.

3. The respondents opposed the O.A. on the grounds that the applicant left the job on his own from Bhopal. The Divisional Railway Manager, Bhopal has not been made as party. The O.A. is time barred because the cause of action had arisen in 1986 while this application is moved in 1992. It is also averred that since the cause of action had arisen at Bhopal, the matter was cognizable by Jabalpur Bench and not by this Bench. The case of the applicant that he was issued card no. 263270 is denied by the respondents. It is pleaded that neither the aforesaid card was issued to the applicant nor had he worked during the alleged period of time. The applicant was served with a notice dated 01.8.86/18.9.86 that his service card was forged one and he should explain the situation

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but, the applicant failed to furnish the requisite information. The application being vague and misconceived, is said liable to rejection.

4. The applicant filed reply of the counter by way of rejoinder, and averred that the application was entertainable by this Bench because the applicant was living in Jhansi. On other points, the contents of O.A. have been reaffirmed.

5. We have heard the learned counsel for the parties and have perused the record.

6. First of all we shall take up the point of territorial jurisdiction of this Bench. Admittedly, the cause of action arose in Bhopal where the services of the applicant were terminated or the applicant left the job on his own. In that situation, the jurisdiction lay with Jabalpur Bench. The applicant, however, contends that after he was no more in job, he started living in Jhansi and thus this Bench has got jurisdiction. Rule 6 of Central Administrative Tribunal (Procedure) Rules, 1987 deals with place of filing application. Ordinarily, an application shall be filed with the Registrar of the Bench within whose jurisdiction, the applicant is posted or the cause of action, wholly or in part, has arisen. An application could also be filed with the Registrar of Principal Bench under certain conditions provided therein. A person who has ceased to be in service

be reason of retirement, dismissal or termination of service may of his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application. The fact that the applicant is living in Jhansi from before the date of filing this application, is not controverted. As such, the application can be filed before this Bench.

7. The plea that the application suffers from the defect of non-joinder, of Divisional Railway Manager Bhopal and misjoinder of Divisional Railway Manager Jhansi, has also been taken. When the applicant served in Bhopal and he was thrown out of job at Bhopal, definitely D.R.M. Bhopal should have been arrayed as party. Since Union of India through Secretary Ministry of Railway is also made party, it remains only an irregularity and not illegality. Hence, the O.A. cannot be thrown on this count also.

8. The next point raised by the respondents is that of limitation. According to the applicant, he was removed from service on 18.9.86. The respondents on the other hand contend that the applicant left the job on his own because his service card was found forged. The cause of action, therefore, arose on 18.9.86. The O.A. should have been filed within one year but, it is filed in 1992 and that too without moving any application for condonation

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of delay. The plea taken by the applicant is that he had been moving representations and last one was moved on 24.10.1992 and when no reply was received, this O.A. was filed. Making repeated representations will not extend the period of limitation. Hence this plea that the period of limitation is gained by moving representations is not acceptable. Since, the O.A. has been filed beyond the period of limitation, it cannot be accepted for decision on the disputed points. The O.A. is liable to be dismissed on this ground.

9. Since the O.A. is found to have been filed much beyond the period of limitation, it remains not entertainable and we are not supposed to give decision on merits. Consequently, the O.A. stands rejected. No order as to costs.

Scd/-
Member (A)

Scd/-
Member (J)

/M.M./