Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH, ALLAHABAD.

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Allahabad This The 25th day of January, 1999.

ORIGINAL APPLICATION NO: 766 of 1992.

CORAM: HON'ble Mr. S.K.Agrawal, J.M.,
Hon'ble Mr. G.Ramakrishnan, A.M.

Kamlesh Kumar Verma, son of
Sri Mahesh Chandra Verma, resident of
No:448, KrishnaNagar, Kydganj,
Allahabad. ... Petitioner

(Sri P.R.Ganguly & Sri Satya Vijai, Advocates)

Versus:

1. Union of India through the
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Deppty Chief Engineer, Concrete
Sleeper Plant, Northern Railway,
SubedarGanj, Allahabad.

3. Senior Engineer, Concrete Sleeper Plant,
Northern Railway, Subedar Ganj,
Allaha bad.

4. Shop Superintendant, Concrete Sleeper Plant,
Northern Railway, Subedar Ganj,
Allahabad. .. Respondents.

(C/R Sri A.K.Gaur, Advocate).

Order:

(By: Hon'ble Mr S.K.Agrawal, J.M.)

In this Original Application, applicant makes a prayer to direct the Respondents to permit the applicant to continue in service and to treat the applicant as a regular Class-IV employee and to pay salary with all the backwages.

The faets of the case as stated by the applicant

are that the applicant was initially engaged as a Casual Labourer on 16.6.1978 and worked till 6.7.1981. The applicant was conferred temporary status. He was also allotted provident Fund number. On 9.5.1983, he went on seven days Casual leave and he reported sick. Thereafter, he was declared fit on 15.9.1983 and reported on duty with a fitness certificate of a private doctor but a note was apended to examine the applicant by the Railway Hospital but on his application no memo was given to the applicant and the applicant was not allowed to work as such, the applicant made a representation dated 28.10.1983 and 8.12.1983 but of no avail. No termination order was issued by the respondents sofar. The applicant filed an application before the payment of Wages Authority, who by his order dated 24.7.1984 directed the respondents to pay the salary to the applicant. The respondents have filed an Appeal before the District Judge, Allahabad, which was allowed by the Ist Additional District Judge, Allahabad Vide his Order dated 20.12.1986. The applicant filed an appeal before the Allahabad High Court, which is pending. It is submitted by the applicant that there was no complaint against him, therefore, not permitted the applicant to join his rightful duty was arbitrary and unjustified action of the respondents, therefore, by this Origihal application, the applicant sought relief as mentioned above.

Counter was filed. In the counter it is stated that this application is hopelessly barred by limitation and is liable to be dismissed on this ground alone. It is also stated that the applicant was habital and remained on unauthorised absence. A long list of the absence is given in paragraph 3 of the Counter. It isalso stated that the applicant never reported back to the Railway doctor inspite of the fact that his place of residence was situated within a radius of 8 kilometers. Applicant filed an application before the payment of Wages Authority and the same was allowed, but on an appeal, the order of the payment of Wages Authority was set-aside vide Judgement dated 20.12.1986. The applicant has filed this Original application on 29.5.1992 thereafter, therefore, the respondents have requested to dismiss this Original application with cost on the basis of the avermmts made in the Counter.

Rejoinder has been filed reiterating the facts sated in the Original application.

Heard the learned lawyer for the applicant and the learned lawyer for the respondents and perused the whole record. The learned lawyer for the applicant during the course of arguments while supporting the claim of the applicant has referred the case of ' Nathu Ram Vs. Union of India and Others' (1989) 11 ATC 340 and 'S.S.Rathore Vs. Union of India and Others' (1990) SC page-10.

On the other hand, the learned lawyer for the respondents has laid more emphasis on the point that this Original Application is hopelessly barred by limitation. It appears that the applicant was not allowed on duty on 15.9.1983 after he returned from leave. The applicant filed respresentations dated 28.10.1983 and 8.12.1983, therefore, after he filed an application before the payment of Wages Authority, which was also allowed vide order dated 24.7.1984. Respondents have filed Appeal, which was decided vide order dated 20.12.1986 but the applicant has filed this Original application on 29.5.1992 nearly 5½ years after. No reasonable and plausible explanation was given by the applicant for delay but rather he has declared in his Original application that the application is within limitation prescribed Under section 21 of the Administrative Tribunals Act, which appears prima-facie wrong.

In 'Bhoop Singh Vs. Union of India and others' AIR(1992) SC page 1441, it was held that without considering the explanation ofa Govt.serfent, who has the legitimate claim to approach the Court for the relief he seeks after a reasonable time. This is necessary to avoid dislocation of the administrative setup. The purpose of limitation as provided under Section 21 of the Administrative Tribunals Act, 85 is that a Govt servant who has legitimate claim and immediately thereafter, respondent has passed adverse order against him and a final order passed within a period of one year after a lapse of 6 months from the date of representation on which no reply has been received, then, he must have approached the Tribunal forthe redressal of his grievances.

In view of this legal proposition, We are of the considered opinion that this application has been filed beyond the limitation and is hopelessly barred by limitation.

Even on merits, the applicant has no case and the rulings cited by the learned lawyer for the applicant

shall not help the case of the applicant on the basis of the facts and circumstances of the case.

We, therefore, dismiss this Original application with no order as to cost.

MEMBER(A).

MEMBER(J).

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