

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 31st DAY OF OCTOBER, 2001

Original Application No.454 of 1993

CORAM:

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

HON.MR.C.S.CHADHA, MEMBER(A)

Summari Lal, S/o Shri Mahabir  
R/o Aruwav, P.O. Mukundpur  
Soraon, district Allahabad.

... Applicant

(By Adv: Shri Anand Kumar)

Versus

1. Union of India through  
General Manager, Northern Railway  
Allahabad.
2. Divisional Superintendent  
Engineer(Construction)  
Northern Railway, Allahabad.
3. Assistant Engineer(G)  
Northern Railway, Allahabad.
4. Permanent Way Inspector(PQRS)  
Northern Railway, Manda Road, Allahabad

... Respondents

(By Adv: Shri A.K.Gaur)

O R D E R(Oral)

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

By this OA u/s 19 of A.T.Act 1985 the applicant has prayed for a direction to the respondents to re-examine the applicant in lower medical category other than B-I and appoint him in such category for which he is found suitable.

The facts in short are that applicant was engaged as casual gangman on 6.2.1984. He worked upto 14.11.1987. On 3.11.1987 applicant was issued a medical memo for medical check up. On medical examination he was found unfit for B-I medical category. Thereafter he was not allowed to work on the post. The applicant kept quiet for some time then he

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filed representation on 21.12.1991 and 12.5.1992 and as the relief was not granted he filed this OA on 3.3.1993. By order dated 5.5.1993 a notice was issued to respondents as to why this OA may not be admitted for hearing.

Counter affidavit has been filed in para 3 whereof it has been stated that applicant has not worked after 14.11.1987 after he was found medically unfit. He did not agitate or filed any representation against his disengagement. He filed first representation on 21.12.1991 and 12.5.1992. It is submitted that the application is highly time barred and is liable to be rejected on the ground of limitation.

Shri A.K.Gaur learned counsel for the respondents has placed reliance on the judgements of Hon'ble Supreme Court in cases;

- 1) Commandant TSP & Others Vs Eswaramoorthy 1999 SCC(L&S) 643
- 2) Ramesh Chandra Sharma Vs.Udhan Singh Kamal & Others ,2000 SCC(L&S) 53

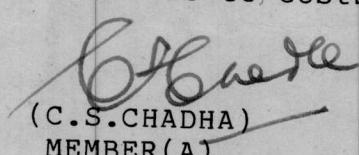
Shri Anand Kumar learned counsel for the applicant also submitted that he filed application MA 382/97 on 29.1.1997 seeking condonation of delay. He also filed affidavit in support of the application. He has submitted that if there is delay the same may be condoned and the matter may be considered on merits.

Learned counsel for the applicant has placed reliance in an unreported judgement of this Tribunal dated 20.2.2001 in OA 106/96.

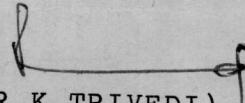
We have carefully considered the submissions of the learned counsel for the parties. However, we are not satisfied that the long delay over six years in filing this OA has <sup>been</sup> explained by the applicant. Even in affidavit filed in support of the delay condonation application it is not made out that the application

challenged his dis-engagement before any authority by filing representation. He kept quiet for four years and then filed representation in 1991. The Hon'ble Supreme Court in case of 'Commandant TSP & Others (SUpra) has said that where Tribunal does not find any valid reason for condoning the delay the matter should not be considered on merits. In the present case, we have no doubt that the applicant did not pursue his matter diligently and there is absolutely no explanation for the long delay, particularly four years between 1987 to 1991. It is well established that once limitation starts running, it cannot be stopped merely by filing representation. In the present case limitation started running against the applicant from 15.11.1987. The period of limitation available u/s 21 expired on 15.11.1988. He filed representation after three years of expiry of period of limitation. The learned counsel also relied an unreported judgement of this Tribunal and submitted that applicant should have been considered for a lower medical category. But the facts of the case before this Tribunal in case of 'Awdhesh Singh Vs. Union of India are distinguishable in that case applicant after screening was found suitable for regularisation. In the present case, no screening was done. Probably, the applicant's fitness was required to continue him as casual gangman. In the circumstances the judgement of this Tribunal relied on does not help him.

The OA is accordingly dismissed as time barred.  
There will be no order as to costs.

  
(C.S.CHADHA)  
MEMBER(A)

Dated: 31.10.2001

  
(R.R.K. TRIVEDI)  
VICE CHAIRMAN

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