

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1200 of 1995

Allahabad this the 07th day of September, 2000

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S. K. I. Naqvi, Member (J)

1. Gulab Chand, S/o Late Baij Nath, Vill.
Singraha, P.O. Bairanpur, Distt. Allahabad.
2. Ram Lal Singh Patel, S/o Shri Roshan Lal,
Vill. Pura Pajawa, P.O. Bamrauli, Distt.
Allahabad.

Applicants

By Advocate Col. Ashok Kumar

Versus

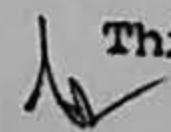
1. Union of India through Chief Engineer,
Central Command, Lucknow.
2. Commander Works Engineer (Project), Allahabad.
3. Commander Works Engineer (Air Force) through
Garrison Engineer, Bamrauli, Allahabad.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr. S. Dayal, Member (A)

 This application has been filed for

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direction to the respondents to absorb the applicants in any suitable appointment. A direction is also sought to the respondents not to appoint any fresh entrants till the applicants have been absorbed.

2. The case of the applicants is that they served in M.E.S. in the Office of Garrison Engineer(A.F.), Bamrauli as Mazdoor for a period of 89 days each in the year 1984. The applicants have been making request to the respondents even, since that time and claimed to have been verbally assured by the respondents that their names have been kept on the panel for absorption as and when vacancies arises. The applicants claimed relied on the ground that 8 Anti Malaria Laskars were employed by 29 Wing(Air Force) on 17.10.1986 and another 5 came before the Tribunal and the Tribunal directed that their cases be considered sympathetically for adjusting against Class IV post. It is claimed that the Army Headquarters directed the Air Force, Bamrauli to call the 5 surplus Anti Malaria Laskars for absorbing them and it is also claimed that those Anti Malaria Laskars had less than 90 days of service. The applicant had filed Original Application No. 1663 of 1991 and by order dated 10.11.1994, a Division Bench of this Tribunal had directed consider and the respondents to/decide the representation dated 15.4.1994 by a clear and speaking order within a period of 2 months. The applicants

filed a contempt petition as the representations were not decided and the representation dated 15.4.94 was thereafter decided by order dated 26.4.95 by the respondents. Hence, this O.A. has been filed.

3. The arguments of Shri(Col.) Ashok Kumar, for the applicant and Shri Amit Sthalekar for the respondents, have been heard.

4. Learned counsel for the respondents has raised the issue of limitation. It is contended by the respondents that the cause of action relates to the year 1984 and has been agitated only in the year 1993 and thereafter before the Tribunal. He relies on the judgment of Apex Court in 'Ratan Chandra Sammanta & Ors. Vs. The Union of India & Ors. J.T.1993(3)S.C. 418'. This judgment lays down the following;

"A writ is issued by this Court in favour of a person who has some right, And not for sake of roving enquiry leaving scope for manoeuvring. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 years has expired and in case we accept the ~~merit~~prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed."

5. As regards the basis of the claim of the applicant on the judgment of Division Bench

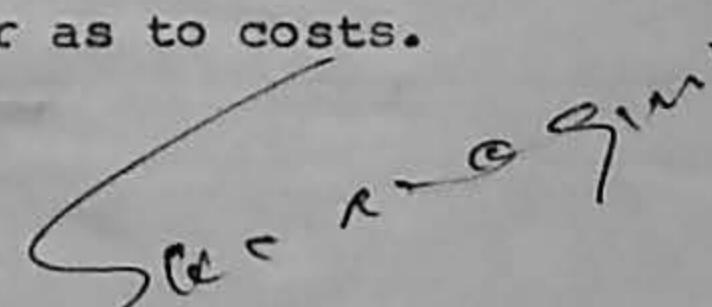
of this Tribunal, learned counsel for the respondents has mentioned that the judgment related to Anti Malaria Laskars and not to the category of Mazdoor to which the applicants belong. He also contends that the applicants were appointed for specified period and no claim survives after completion of the period. The learned counsel for the applicant had produced copy of order of this Tribunal in O.A.1443/92 dated 12.4.93, this relates to the category of Anti Malaria Laskars. This case cannot give support to the claim of the applicants because the applicant in O.A.No.1443/92 had made their prayer within the period of limitation while the applicants are outside the said period of limitation in the case before us. The second case relied upon by the learned counsel for the applicant is that of Hari Mohan and Others Vs. Union of India and Others-O.A.No.1336/91, decided on 05.11.1992. In this case, the applicants have claimed benefit of Special Army Order dated April, 1976, by which they were entitled and are regularised in Group 'D' post and order dated 16.6.89, by which the transfer adjustment of Seasonal Anti Malaria Laskar against any group 'D' post was discontinued, was held to be applicable and it is mentioned in the order that seasonal casual labour has no right to claim and challenge the validity and legality of a circular and merely because once they were engaged, it will not confer any right on them to continue in the service or to claim regularisation. The Tribunal went on to make certain observation in favour of the applicants, ^{in that case} but this cannot be treated as an authority for the claim of the applicant.

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6. Learned counsel for the respondents has ~~also~~ drawn attention to the para-15 of his counter-affidavit, in which it has been mentioned that Army Headquarter letter dated 24th March, 1994 relates to only 5 Anti Malaria Laskars employed in 29 Wing Air Force, Bamrauli and it does not relate to MES. Those Anti Malaria Laskars were declared surplus and were offered alternative employment of Safaiwala, which was challenged before the Tribunal and the Tribunal issued a direction to absorb them in some alternative employment.

7. We have considered the issues as to whether any right accrue to the applicants to be absorbed against a regular group 'D' vacancy on account of having worked as casual labour for 89 days, 16 years back. We cannot persuade ourselves to accept the contention of learned counsel for the applicants that such a right has accrued to the applicants.

8. The O.A. is, therefore, dismissed as time barred as well as lacking any merits. No order as to costs.


Member (J)


Member (A)

/M.M./