

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 788 of 1995

alongwith

Original Application No. 1375 of 1998

Allahabad this the 12th day of May, 2004

Hon'ble Mr. Justice S.R. Singh, Vice Chairman
Hon'ble Mr. D.R. Tiwari, Member (A)

S O.A. No. 788 of 1995

Suraj Narain Misra, S/o Chandrabali Misra, R/o Vill.
Telgaonwa, PO : Rohuwa, Distt. Deoria.

Applicant

By Advocate Shri V.K. Barman

Versus

1. ~~Union~~ of India through Ministry of Railways,
New Delhi.
2. D.R.M., N.E. Rly., Lucknow.
3. D.R.M.(P), NER, Lucknow.

Respondents

By Advocate Shri A.K. Gaur

O.A. No. 1375 of 1998

Sanjeev Kumar, S/o I.B. Lal R/o Qr.No. 391, Sector 22
Block A, Indira Nagar, Lucknow.

Applicant

By Advocate Shri V.K. Barman

Versus

1. Union of India through General Manager, North
Eastern Rly., Gorakhpur.
2. Divisional Railway Manager, N ER, Lucknow.
3. DRM (P), N.E.Rly., Lucknow.

Respondents

By Advocate Shri G.P. Agarwal

By Hon'ble Mr. Justice S.R. Singh, V.C.

The cause of action and reliefs claimed in both the Original Applications being common and identical in nature, we are proceeding to decide them by a common order with the consent of parties counsel. Original order shall be kept in the file of O.A.No.788 of 1995 and a copy thereof be placed in the file of O.A.No.1375/98.

2. The applicants herein were initially engaged under the respondents as a casual worker. It appears that screening test was held on 05.05.87, 10.05.87, 24.05.87 and 27.05.87 in which applicants were also participated. They were declared successful and accordingly an order was issued with the approval of competent authority to appoint successful candidates in class IV in the scale of Rs.750-940 after verification of their caste certificate, date of birth and educational qualification etc. The select list/panel was later on cancelled by order dated 21.11.1989, which is sought to be quashed in these Original Applications coupled with a direction to respondents to appoint the applicants on class IV post on the basis of approved select list dated 25.09.1987.

3. On behalf of respondents, a preliminary objection has been raised to the effect that Original Applications are highly belated, and the application for condonation of delay does not disclose sufficient cause for approaching the Tribunal late. In the application seeking condonation of delay, Sri V.K.Barman counsel for the applicant has submitted that similarly circumstanced employee had approached the Tribunal earlier in O.A.No.462/91, 139/91, 517/91 and O.A.No.144/90. First three Original Applications were disposed of vide order

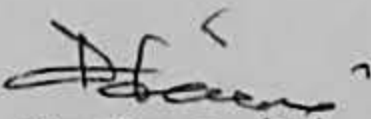
dated 04.09.1992 whereas the second one O.A.No.144/90 came to be disposed of vide order dated 30.11.1994 following the order passed in first three original applications. Shri V.K. Barman, Counsel for the applicants has submitted that the applicants came to know about the order very late . In the circumstances, submits the counsel, delay in filing the original applications should be condoned. We are not satisfied with the cause shown in the applications for condonation of delay. The delay condonation application filed in O.A. No.788/95 is not supported by any affidavit. However, the delay condonation application filed in O.A.No.1375/98 is supported by an affidavit. Learned counsel for the respondents ^{has} ~~is~~ relied on State of Karnataka and Others Vs. S.M. Kotrayya and Others 1996 S.C.C. (L&S) 1488 in which it has been held that mere fact that the applicants filed the belated application immediately after coming to know that in similar claims relief had been granted by the Tribunal could not constitute proper explanation to justify condonation of delay. The explanation, it has been held in ^{this} ~~this~~ case, must relate to failure to avail the remedy within the limitation period. In the present cases, the panel in question was cancelled way back on 21.11.1989 whereas the original applications no.788/95 and 1375/98 were instituted on 02.08.95 and 14.10.1998 respectively. Therefore, original applications are highly belated and liable to be dismissed on this ground alone.

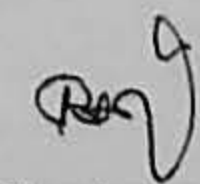
4. On merits also applicants have no case. The panel prepared and approved on 25.09.1987 came to be cancelled on 21.11.1989, which order has not been set aside in the O.As, referred to herein above and reliance on which has been placed by Shri V.K. Barman. Instead



the Tribunal in O.A.No.462/91, 139/91 and O.A.No.517/91 had directed the respondents therein to allow the applicants to work before any ^{final} ~~final~~ ^{was} ~~order~~ passed on the background of allegation that after cancelation of the panel the applicants therein had participated in the second screening and accordingly the Tribunal held that in case the applicants ~~have~~ ^{have} succeeded in the second screening test, they would get the benefit of regularisation and that ^{is} ~~is~~ why Tribunal directed the respondents to allow the applicants therein to work in case their juniors had been allowed to work. The Hon'ble Supreme Court in Special Leave to Appeal preferred against the aforesaid orders, has directed the respondents vide order dated 21.12.1996 to fix a date and inform the petitioners therein to appear in the screening test before the appropriate authority within 3 months from the date of the order. Sufficient time has elapsed and we can reasonably ~~be~~ ^{be} presumed ^{have been} that the order passed by the Hon'ble Supreme Court must ~~be~~ ^{have been} complied with. The result of the Screening test held in compliance of the order of Hon'ble Supreme Court, must have been declared. In the circumstances, it is not possible to issue any direction to ~~allow~~ ^{allow} the applicant to continue now at this belated stage.

5. For the reasons stated above, Original Applications are dismissed. No order as to costs.


Member (A)


Vice Chairman

/M.M./